

EXHIBIT 1



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Transcript of Claire Dant

Date: March 31, 2021

Case: Bethel Ministries, Inc. -v- Salmon, et al.

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
NO. 1:19-CV-01853-SAG

BETHEL MINISTRIES, INC.,
Plaintiff

V.

DR. KAREN B. SALMON, ET AL.,
Defendants

DEPONENT: Claire Dant
DATE: March 31, 2021
REPORTER: Brooke Andrew

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STIPULATION

The deposition of CLAIRE DANT was taken via videoconference in which all participants attended remotely, on WEDNESDAY, the 31ST day of MARCH, 2021 at approximately 9:57 a.m.; said deposition was taken pursuant to RULES 30 AND 26 OF THE FEDERAL Rules of Civil Procedure. THE OATH IN THIS MATTER WAS ADMINISTERED REMOTELY PURSUANT TO MD EXEC ORDER NO. 20-03-30-04.

It is agreed that BROOKE ANDREW, being a Notary Public and Court Reporter, may swear the witness.

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PROCEEDINGS

COURT REPORTER: We're on the record.

VIDEOGRAPHER: Okay. Stand by. Thank you to everyone for attending this proceeding remotely, which we anticipate will run smoothly. Please remember to speak slowly and do your best not to talk over one another. Please be aware that we are recording this proceeding for backup purposes. Any off the record discussions should be had away from the computer. Please remember to mute your mic for those conversations. Please have your video enabled to help the reporter identify who is speaking. If you are unable to connect with video and are connecting via phone, please identify yourself each time before speaking. We'll provide a complementary unedited recording of this deposition with the purchase of a transcript. I apologize in advance for any technical- related interruptions. Thank you.

COURT REPORTER: Will all parties except for the witness, please state your appearance, how you

1 are attending, and your location?

2 MR. SCOTT: This is Robert Scott, I am
3 representing the defendants in this case. I'm
4 appearing from my home in Catonsville, Maryland over
5 video.

6 MR. TUCKER: Hello, this is Ryan Tucker, I'm
7 counsel for the plaintiff, the witness here today.

8 MR. SCHMITT: I'm Paul Schmitt, I'm also here
9 representing the plaintiff.

10 MR. TUCKER: And Paul and I are both in
11 Washington DC.

12 MR. FINE: Justin Fine, attorney for the
13 defendants, appearing from Baltimore, Maryland.

14 COURT REPORTER: Okay. Ms. Dant, will you
15 please state your full name for the record?

16 THE WITNESS: Claire Dant.

17 COURT REPORTER: Now, Ms. Dant, can you please
18 hold up a photo ID to the camera?

19 THE WITNESS: I don't have it with me, it's in
20 my purse in another room. Do we need to go get it?

21 COURT REPORTER: If I can get the attorneys to
22 agree that you are who you say you are, we can move

1 forward.

2 MR. SCOTT: That's fine.

3 MR. TUCKER: I affirmatively state that this is
4 Claire Dant.

5 COURT REPORTER: Okay.

6 MR. SCOTT: That's satisfactory to me.

7 COURT REPORTER: All attorneys agree? Thank
8 you. Ms. Dant, will you please raise your right
9 hand? Okay. Do you solemnly swear or affirm that
10 the testimony you're about to give will be the
11 truth, the whole truth, and nothing but the truth?

12 THE WITNESS: Yes. I do.

13 COURT REPORTER: Thank you. You may begin.

14 DIRECT EXAMINATION

15 BY MR. SCOTT:

16 Q Good morning, Ms. Dant. My name is Robert
17 Scott, I'm an assistant attorney general for the State
18 of Maryland and I represent the defendants in a case
19 that we're here about today that's been brought by
20 Bethel Ministries, Inc. against several state officials,
21 including members of the BOOST Advisory Board. We're
22 here today to take your deposition in that case. We are

1 doing this over video link, which is less than ideal.
2 Usually these proceedings take place in a conference
3 room where we can all sit around a table and conduct the
4 deposition. So to the extent this is a little awkward
5 and inconvenient, I apologize for that, but it's just
6 the way things are these days. Have you ever been
7 deposed before?

8 A No.

9 Q Okay. I'm sure your able attorneys have
10 explained the process to you, but I'm just going to give
11 you a few reminders about the process so that it can go
12 smoothly. You've been placed under oath by the court
13 reporter. I'm going to be asking you questions, you're
14 going to be answering those questions under oath. You're
15 under an obligation to give truthful answers to all of
16 my questions. It's important since the court reporter
17 is taking down everything that I say and everything that
18 you say, that we try not to talk at the same time.
19 Frequently, in everyday conversation, you may --
20 somebody may start to ask you a question and you think
21 you know what they're going to ask, and then you start
22 to answer before the person finishes their question, and

1 we want to avoid that here because it's going to make it
2 very difficult for the court reporter to get down a
3 clear transcript of what everybody's saying. So I'm
4 going to do my best to make sure you're completely
5 finished with your answer to my question before I start
6 to ask you another question. And if you could be so
7 kind as to permit me to finish each question completely
8 to the end before you start to respond, it'll make it
9 easier for the court reporter to get everything down
10 correctly, okay?

11 A Yes.

12 Q Another one of the ground rules is you have to
13 give a verbal answer to the question. You know, some
14 verbal statement shaking your head, or nodding your
15 head, or "uh-huh," or "uh-huh," or grunting are not
16 sufficient. You have to give some affirmative
17 statement. If I ask you a question that is not clear to
18 you or you don't understand, please let me know and I
19 will rephrase the question for you, okay?

20 A Yes. Thank you.

21 Q If you need to do -- if you need to take a
22 break at any time, you know, let us know and we can

1 arrange to do that. You're here today, I want -- let me
2 ask the court reporter to show you what will be marked
3 as deposition Exhibit 1.

4 (EXHIBIT 1 MARKED FOR IDENTIFICATION)

5 VIDEOGRAPHER: Stand by, sharing now.

6 Q So this is a copy of the notice for today's
7 deposition and you're here today initially in a -- in
8 capacity as an organizational dep -- organizational
9 designee, excuse me, for the Plaintiff in this case,
10 Bethel Ministries, Inc. And the notice on page 4
11 includes, and which continues onto page 5, includes a
12 list of subject matters on which we'd asked Bethel to
13 provide a designee. And I just want to confirm that
14 you're here today to testify as to all of the topics on
15 this notice; is that correct?

16 A Yes. It is.

17 Q Okay. Thank you. What did you do to prepare
18 for today's deposition?

19 A I read over documents and met with my
20 attorneys.

21 Q What documents did you review?

22 A Pretty much all of the documents that we had

1 produced in regard to the case.

2 Q The documents that were produced in discovery
3 in the case, did you review anything else?

4 A No, sir.

5 Q And other than your attorneys, did you talk to
6 anyone about the dep in -- in preparing for your
7 deposition?

8 A No, sir.

9 Q And how long would you say you spent preparing
10 for today's deposition?

11 A Several meetings. Three or four.

12 Q Would you say you spent more than five hours
13 preparing?

14 A Probably.

15 Q More than ten?

16 A Probably not.

17 Q So somewhere between five and ten hours?

18 A Yes.

19 Q Okay. How long have you worked at Bethel
20 Christian Academy?

21 A This is my 20th year.

22 Q And you're the principal; is that correct?

1 A Yes, sir.

2 Q And have you been the principal the entire
3 time you've worked there?

4 A No.

5 Q What other positions have you held?

6 A Assistant principal and teaching staff.

7 Q Did you start as a teacher?

8 A Yes.

9 Q And then when did you become assistant
10 principal?

11 A In 2003.

12 Q And when did you become principal?

13 A In 2016.

14 Q And who do you report to?

15 A Dr. John Green and the church board.

16 Q And what is Mr. Green's position?

17 A He is the lead pastor.

18 Q Is there a distinction between Bethel
19 Ministries Inc and Bethel Christian Academy and if so
20 what is it?

21 A I'm not sure I understand what you mean by
22 distinction.

1 Q Well, there's a -- the Plaintiff in the case
2 is Bethel Ministries Inc; what is that?

3 A That's the church ministry.

4 Q And when we were -- and Bethel Christian
5 Academy than would be the school that's operated by the
6 ministry; is that correct?

7 A Yes.

8 Q And you said that you report to Mr. Green, the
9 lead pastor, and then also a board; is that right?

10 A Yes, sir.

11 Q And how many people are on that board?

12 A Honestly, I don't know precisely, it's like
13 half a dozen.

14 Q And how often do you deal with the board?

15 A Not very frequently.

16 Q Does Pastor Green have any role with respect
17 to the operation of the school?

18 A No.

19 Q What is your educational background?

20 A You mean what is my highest level of degree?

21 Q Sure.

22 A I have a master's degree in Curriculum and

1 Instruction.

2 Q From where?

3 A The University of Scranton.

4 Q And what year did you get that?

5 A Oh my goodness. I don't remember. It's on a
6 certificate on my wall.

7 Q Okay. You have a bachelor's degree as well?

8 A I do.

9 Q From where?

10 A It was called Columbia Union College, now
11 Adventist University.

12 Q Where's that?

13 A In Takoma Park, Maryland.

14 Q And what year did you get your bachelor's
15 degree?

16 A I also don't remember precisely, it was at
17 early 2000s.

18 Q And what was your degree in your bachelor's?

19 A Elementary Education.

20 Q Do you have any other degrees?

21 A I'm sorry, you broke up.

22 Q I'm sorry. Do you have any other degrees?

1 A No, sir.

2 Q And where -- have you held any other
3 professional positions other than working at Bethel?

4 A I'm not sure what you mean by professional
5 positions, I have taught elsewhere.

6 Q Okay. Where?

7 A A school called Providence Christian School.

8 Q And how -- when did you teach there?

9 A In the late 1990s.

10 Q For how long?

11 A One year.

12 Q Have you had any other teaching positions?

13 A No.

14 Q How long has Bethel Christian Academy been in
15 operation?

16 A Since 1984.

17 Q And my understanding there's a kindergarten
18 through eighth grade; is that correct?

19 A No. Preschool through eighth grade.

20 Q And what age does preschool begin?

21 A Three.

22 Q And how many students attend Bethel?

1 A This year, approximately 160.

2 Q And it's co-ed; is that correct?

3 A Yes, sir.

4 Q And how many teachers are employed by the
5 school?

6 A 20-some.

7 Q And how many employees does the school have,
8 including teachers?

9 A 30-some.

10 Q And where is the school located?

11 A In Savage, Maryland.

12 Q How many buildings does the school cons --
13 does the school operate?

14 A Two.

15 Q And does Bethel pay any property taxes on
16 either of those buildings?

17 A I have no idea.

18 Q Are the buildings owned by the ministry or by
19 the school?

20 A By the ministry.

21 Q Who is in charge of the finances for the
22 school?

1 A That would be Dr. Green and the finance board.

2 Q So I take it from your answer about the
3 property taxes that you don't have any role with respect
4 to the finances; is that correct?

5 A That is correct.

6 Q So you don't know what sources of funding the
7 school has; is that correct?

8 MR. TUCKER: Objection to form.

9 Q Let me rephrase that --

10 A I'm not sure exactly what you're asking.

11 Q Let me rephrase that question. Do you know
12 what sources of funding the school has?

13 A To some degree, yes.

14 Q And can you ex -- tell me what it is -- what
15 they are?

16 A Tuition, hot lunch, extended care fees.

17 Q Does the school receive any subsidy from any
18 outside sources?

19 A Such as what type of outside sources?

20 Q Organizations, government organizations,
21 government agencies, non-governmental organizations,
22 religious organizations.

1 A We do receive title funding -- title grant
2 funding from the Title I, II programs.

3 Q Are those federal or state funds?

4 A Those are federal.

5 Q What about non-governmental sources? Does it
6 receive any subsidies from non-governmental sources?

7 A No.

8 Q And do you know how much approximately the
9 school receives each year in the Title I and Title II
10 grants?

11 MR. TUCKER: Hey Rob, is this part of the
12 corporate rep topics?

13 MR. SCOTT: I believe that we included the
14 subject for all allegations in the complaint, but
15 I'm just trying -- I'm just trying to get some
16 background information about the school.

17 MR. TUCKER: Yeah. Yeah. I mean, that's fine.
18 I just wanted to object to the scope on these
19 questions because it seems to me like it's a little
20 bit outside that.

21 MR. SCOTT: Okay.

22 BY MR. SCOTT:

1 Q Do you know the answer?

2 A Not precisely, no.

3 Q Do you know roughly?

4 MR. TUCKER: Objection to form.

5 A Yeah. I'm not entirely sure. Are you asking
6 about a particular title program?

7 Q I'm just trying to get a sense of how much the
8 school receives on an annual basis for -- through these
9 government programs.

10 A Less than \$10,000.

11 Q Who makes decisions about how the school is
12 operated?

13 A In what respect?

14 Q Well, how about -- let's start with policies
15 and procedures for operating the school. Who decides
16 that?

17 A Different people are involved in different
18 aspects of decision-making.

19 Q Okay. We -- the school has a handbook, right?

20 A Yes, sir.

21 Q Okay. Who is responsible for the policies
22 that are in the handbook? Who makes those policies?

1 A Primarily me.

2 Q Who else is involved in that?

3 A I have an assistant principal who I discuss
4 things with at times. And, Dr. Green may -- may also
5 enter into a discussion.

6 Q And who is the assistant principal?

7 A Brenonda Jackson-Gray.

8 Q I didn't get the first name. I'm sorry.

9 A It's Brenonda.

10 Q And how long has she worked as assistant
11 principal there?

12 A She became assistant principal before I was
13 principal. So probably a year longer than I've been
14 principal.

15 Q Who at the school makes decisions about
16 student admissions?

17 A Primarily me or Mrs. Gray may.

18 Q Mrs. Gray May? Who is that?

19 A Yes. Sorry. Jackson-Gray.

20 Q Oh, okay. The assistant principal?

21 A Yes.

22 Q Let me -- let's move on to Exhibit 2, which is

1 the handbook.

2 (EXHIBIT 2 MARKED FOR IDENTIFICATION)

3 VIDEOGRAPHER: Stand by. Sharing now.

4 Q Okay. Thank you. Ms. Dant, I have marked as
5 Exhibit 2 a copy of the handbook that was attached to
6 the lawsuit in this case. This is dated 27, 2018. I
7 understand from your testimony that you are the person
8 who is primarily responsible for creating this document;
9 is that correct?

10 A That is correct.

11 Q Okay. And do you consult with anyone else
12 about the policies and procedures that are set forth in
13 this handbook when you want to, say, make changes to
14 them?

15 A As stated, yes.

16 Q And that would be Pastor Green; is that right?

17 A Yes.

18 Q And the assistant principal?

19 A Yes.

20 Q Anybody else?

21 A No.

22 Q So this isn't something that you would deal

1 with the board on?

2 A No.

3 Q When you took over as principal, was there a
4 version of this handbook already in effect?

5 A Yes.

6 Q And so that would have been in -- you said
7 2016 was when you took over as principal; is that
8 correct?

9 A Yes.

10 Q All right. And do you know who prepared the
11 versions that were in effect before you became
12 principal?

13 A That would be me.

14 Q Okay. And you did that in your role as
15 assistant principal; is that right?

16 A Yes.

17 Q Okay. And was there a handbook in place
18 before you became assistant principal?

19 A I'm sure there was.

20 Q You're not -- did -- do you have any
21 recollection of that?

22 A I've been do -- I've been doing it for a very

1 long time.

2 Q I'm just trying to -- I'm just trying to
3 understand whether when you first started becoming
4 involved with this handbook, did you create -- was it
5 created from scratch by you or did you have something to
6 start with?

7 A I'm sure I had something to start with, as I
8 recall.

9 Q Okay. And what's the purpose of this
10 document?

11 A To provide clear information regarding our
12 policies and procedures.

13 Q And how often is it revised?

14 A Every year.

15 Q And that would be a process that involves you,
16 Pastor Green, and the assistant principal; is that
17 right?

18 A Yes.

19 Q Who at the school makes decisions about
20 student discipline?

21 A What type of decisions are you referring to?

22 Q Well, let's start with the policy. There are

1 some policies in this handbook about student discipline,
2 correct?

3 A Yes.

4 Q Those were developed by you in consultation
5 with Pastor Green and the assistant principal; is that
6 right?

7 A Mostly with me and the assistant principal.
8 Pastor Green didn't really get too involved in that.

9 Q Okay. When it comes to making in -- decisions
10 about individuals students in particular circumstances,
11 who decides whether discipline is appropriate?

12 A It depends on the behavioral circumstance, the
13 offense.

14 Q Okay. Can you explain that a little further?

15 A If a student is being disciplined for being
16 disruptive in class, that doesn't require any
17 consultation. If a student hits another student, that
18 may require some consultation.

19 Q And when you say consultation, you mean
20 consultation by the staff member who witnessed the
21 incident with you or with somebody else?

22 A Yes.

1 Q And would you be primarily the person who they
2 would consult with about things like that?

3 A Yes. It could be Mrs. Jackson-Gray.

4 Q Okay. So if a staff member sees something
5 that he or she believes may require discipline and it's
6 a seri -- and they believe it's serious enough to
7 warrant it, they can consult with either you or the
8 assistant principal about what to do; is that fair?

9 A Yes.

10 Q So a teacher or another staff member, do they
11 have the authority to suspend a student without talking
12 to you or the assistant principal?

13 MR. TUCKER: Objection to form.

14 A I'm not sure what you mean. Are you asking
15 about a blanket authority?

16 Q I'm wondering if there is a level of sanction
17 that a teacher -- if there's a limit to what they can do
18 to discipline student without talking to you or the
19 assistant principal?

20 A Yes.

21 Q Okay. And what is that limit? What is the
22 limit of their authority, what they can do before they

1 need to come and talk to you or the assistant principal?

2 A Probably remove a child from the classroom.

3 Q They can do that without talking to you or the
4 assistant principal?

5 A Except that they'd be sending them to us, so
6 they would be talking to us.

7 Q Okay. But again, a teacher wouldn't have the
8 authority to suspend a student as discipline without you
9 being involved; is that fair?

10 A That would be correct.

11 Q All right. The same would be true for
12 expelling a student?

13 A That would be correct.

14 Q Going back to the handbook, does the school
15 have any other policy -- written policies or procedures
16 beyond what's in the handbook?

17 A No.

18 Q Okay. So if anyone had a question about
19 student admissions standards or disciplinary standards,
20 a handbook would be the only place that they would look;
21 is that right?

22 A That's correct.

1 Q On page 2, the handbook is signed "the
2 administration." Do you see that?

3 A Yes.

4 Q All right. And who is that? Who constitutes
5 the administration?

6 A Me and Mrs. Jackson-Gray.

7 Q On page 7 of the handbook, there is an
8 admissions policy and there's a reference here in the
9 third paragraph to a code of conduct. It says, "middle
10 school students are required to sign a code of conduct";
11 is that correct?

12 A That is correct.

13 Q Okay. And so students who are not in middle
14 school -- and what is middle school, that is six through
15 eight grades -- through six to eight; is that correct?

16 A That is correct.

17 Q So students who are in earlier grades than six
18 do not have to sign the code of conduct?

19 A Correct.

20 Q And so any student who's in middle school
21 would be presented with a written form that they have to
22 sign, that says they agree to the code of conduct; is

1 that correct?

2 A Yes.

3 Q On page 33 of the handbook, it says, at the
4 top, middle school code of conduct. Is this the same as
5 the code of conduct that the students actually sign?

6 A Yes. It is.

7 Q And what are the consequences if a student
8 fails to comply with the code of conduct?

9 A It depends on what they did.

10 Q Can a student be expelled for failing to
11 comply with the code of conduct?

12 A It depends on what they did.

13 Q Has any student ever been expelled from Bethel
14 for failing to comply with the code of conduct?

15 MR. TUCKER: Objection to form.

16 A That's a -- that's a very broad question. The
17 code of conduct is connected to our discipline policies.

18 Q Can you explain what you mean by that?

19 A The code of conduct is not by itself the
20 discipline policy.

21 Q But it says standards for behavior that need
22 to be compliant with, correct?

1 A It's a general guideline for the intent that
2 we want from our middle school students, and being a
3 part of our community.

4 Q And what is the purpose of having a middle
5 school students sign it?

6 A Acknowledgment that they understand the
7 expectations.

8 Q Let's talk a little bit about the application
9 process, when student is consi -- or family is
10 considering sending their child to Bethel. How does the
11 application process work?

12 A There is an application online that they can
13 access through our website.

14 Q And what information is the student required
15 to provide in order to apply for that admission?

16 A Their name, their age, their grade, those
17 various personal informations.

18 Q Anything else?

19 A No. The application asks for parent contact
20 information and all those regular things.

21 Q Are they required to take some sort of a test
22 in order to be admitted?

1 A That's part of the process.

2 THE WITNESS: Oops, my camera -- my monitor
3 just went blank. I don't know if you can hear me or
4 not? My monitor just went black.

5 VIDEOGRAPHER: We can hear you perfectly.

6 MR. TUCKER: Yeah. Can you still see her, Rob?

7 MR. SCOTT: I can see her, but she's frozen.

8 MR. TUCKER: Okay. They may have disconnected
9 connectivity on that computer.

10 THE WITNESS: We're going to try to get me back
11 up.

12 MR. TUCKER: There?

13 THE WITNESS: It just turned off. Yes.

14 MR. TUCKER: It happens.

15 THE WITNESS: Sure. It's probably -- going to
16 timeout unaware. After a certain amount of time, it
17 turns off.

18 MR. TUCKER: Yeah. Okay.

19 THE WITNESS: Sorry about that. Rebooting.

20 MR. TUCKER: How about that?

21 THE WITNESS: I can try to --

22 MR. TUCKER: Rob, do you want to take a

1 two-minute break while we try to --

2 MR. SCOTT: Yeah. That's fine.

3 MR. TUCKER: Okay.

4 COURT REPORTER: We are off the record.

5 (OFF THE RECORD)

6 THE WITNESS: Okay. We're almost -- okay. I
7 think we're back.

8 MR. SCOTT: Okay. Are we all set?

9 THE WITNESS: I believe so.

10 MR. TUCKER: Yes -- yes.

11 MR. SCOTT: Okay. Madam Reporter, could you
12 read back the last question, please?

13 COURT REPORTER: Yes. Give me one moment. I'll
14 pull that up for you.

15 (REPORTER PLAYS BACK REQUESTED TESTIMONY)

16 BY MR. SCOTT:

17 Q Okay. Thank you. Ms. Dant, is there -- are
18 students who are seeking admission to Bethel required to
19 take a test in order to apply?

20 A Yes.

21 Q And what --

22 A Depending on the grade.

1 Q Okay. What grades need to take a test?

2 A Third grade and up.

3 Q And can you tell me what the -- can you
4 describe the test for me?

5 A It's the TerraNova 3 Standardized Achievement
6 Test.

7 Q And does the school have minimum scores that
8 are required in order to be admitted?

9 A Yes.

10 Q So in order to be admitted, that the student
11 -- the prospective students need to submit an
12 application online, they need to -- if they're in third
13 grade or up, they need to take this standardized test
14 and achieve a certain score. Is there anything else
15 that the applicants need to do to be admitted?

16 A They must turn in all required medical
17 paperwork and go through a family interview.

18 Q And who participates in the family interview
19 for the school?

20 A Myself or Mrs. Gray, at least one parent,
21 sometimes the child. It varies.

22 Q And what happen -- what subject areas are

1 discussed during the interview?

2 A A number of different things, primarily
3 procedural.

4 Q What do you mean by procedural?

5 A How the school functions.

6 Q Does the school request any information from
7 the parents or the student during the interview?

8 A Not that we don't already have through the
9 inter -- through the paperwork process.

10 Q Does the school obtain any other information
11 other than what you've described so far about
12 prospective applicants as part of the admission process?

13 A There may be academic records.

14 Q When you say there may be, what do you mean?

15 A Sometimes they're not available.

16 Q So you get the records from the prior schools
17 that they have attended; is that correct?

18 A Yes, sir.

19 Q And what factors does the school -- you
20 mentioned the test, but beyond the test, what factors
21 does the school consider in deciding whether or not to
22 admit a student?

1 A It is primarily academics.

2 Q What -- anything else?

3 A If they have been expelled from a previous
4 school, we would certainly consider that.

5 Q So when you get their academic records from
6 other schools, you also are looking at their
7 disciplinary history; is that correct?

8 A Yes.

9 Q And that is something that's considered when
10 you're deciding whether to admit a student; is that
11 correct?

12 A Yes.

13 MR. SCOTT: All right. Let's move on to
14 Exhibit 3, please.

15 (EXHIBIT 3 MARKED FOR IDENTIFICATION)

16 VIDEOGRAPHER: Stand by.

17 MR. SCOTT: Is there any way we can rotate
18 that?

19 VIDEOGRAPHER: Yes. Give me one second.

20 MR. SCOTT: Thank you.

21 BY MR. SCOTT:

22 Q Ms. Dant, I've had marked as Exhibit 3 to your

1 deposition a copy of document that was produced by your
2 attorneys in this case. Can you tell me what this is?

3 A It's a brochure that we hand out to people
4 interested in the school.

5 Q All right. I see there are three buildings
6 pictured on the first page of this document. Are those
7 -- all three of those buildings still in use by the
8 school?

9 A No.

10 Q Okay. Which one is no longer being used?

11 A The one at the bottom.

12 Q Sixth, seventh, and eighth grade. So where do
13 those -- where did the students who used to go to school
14 there, where do they go to school now?

15 A The building on Lincoln Street.

16 Q Let me direct your attention to the fifth page
17 of this document. Keep going, one more.

18 A That's it.

19 Q Yeah. That's the one. It's upside down.

20 Okay. This is something that's referred to at the top
21 as a Statement of Cooperation and Agreement. What is
22 this?

1 A It's a statement of cooperation and agreement.

2 Q And what's the purpose of it?

3 A To discuss things that the parent is needing
4 to understand in enrolling their child.

5 Q And I see that there's signature lines for the
6 father, mother, and guardian at the bottom. Do you have
7 the parents sign this as part of the application
8 process?

9 A Yes.

10 Q Okay. And I noticed that about, let's say,
11 two-thirds of the way down, there's a statement that the
12 parent is to initial that says, "As a BCA parent, I
13 commit to carefully read and support all school policies
14 as outlined in the Parent Student Handbook." Do you see
15 that?

16 A I do.

17 Q Okay. What does the school mean by "support
18 all school policies"?

19 A It means not act in opposition to them.

20 Q And does it mean that the parents have to
21 agree with the school policies?

22 A No.

1 Q So the school doesn't believe that a parent
2 who is seeking to have their student admitted needs to
3 agree with all the policies in the handbook. Is that
4 your testimony?

5 A It is. Everyone is welcome.

6 Q Even if they disagree with the policy?

7 A Yes, sir.

8 Q But they have to sign something that says that
9 they support the policy in order for their student --
10 for their child to be admitted, correct?

11 A That is correct.

12 Q And if a parent looked at the handbook and
13 determined that they disagreed with the policies and
14 then refused to sign this document, the statement of
15 cooperation and agreement, Bethel would not admit their
16 child as a student; is that correct?

17 MR. TUCKER: Objection. Speculation.

18 A We've never had that situation, so I don't
19 know what would happen in that situation.

20 Q But you do require parents to sign this
21 document as part of the application process, correct?

22 A We do.

1 Q And if the parents refused to sign it, then
2 the application would not be approved; is that right?

3 A I can't speak to that. I've never had that
4 circumstance occur.

5 Q So you've never had a parent who's refused to
6 sign this?

7 A That's correct.

8 MR. SCOTT: Let's move on to Exhibit 4, please.

9 (EXHIBIT 4 MARKED FOR IDENTIFICATION)

10 VIDEOGRAPHER: Stand by. Sharing now.

11 BY MR. SCOTT:

12 Q This is a doc -- another document that I
13 received in discovery in this case from your lawyers.
14 Can you tell me its -- it says Pre-Enrollment Parent
15 Interview. Can you tell me the purpose of this form?

16 A It's basically a guideline so that whoever
17 might be conducting an interview would not forget to
18 cover certain information.

19 Q And does this accurately set forth the subject
20 matters that are discussed during the interview?

21 A Yes. It does.

22 Q On page 2, it says, "BCA core values,

1 emphasize key points," do you see that?

2 A I do.

3 Q All right. And then it says, "Have parent
4 sign statement," and that's underlined. Is that the
5 statement that we just looked at earlier as part of
6 Exhibit 3, the statement of cooperation and agreement?

7 A No. We did not.

8 Q So there's another form that the parents need
9 to sign?

10 A Yes. The BCA core values.

11 Q And where's that document? Is that in the
12 packet that they received as part of Exhibit 3 or is it
13 separate?

14 A I did not see it there. I'm sure we provided
15 it.

16 Q But it is called BCA core values?

17 A Yes. They are also listed in the handbook.

18 Q Okay. So where -- let's go back to the
19 handbook, which is Exhibit 2. Where are the core values
20 listed in the handbook?

21 A At the very beginning.

22 Q It looks like page 9?

1 A Yep. There they are.

2 Q Okay. And so in addition to the statement of
3 cooperation and agreement, the parents are also given a
4 form that says they agree with these core values that
5 they have to sign as part of the application process?

6 A No. That is not correct.

7 Q Okay. They sign it during the interview?

8 A They do, but they're not signing that they
9 agree with them.

10 Q Okay. What's the purpose of having them sign
11 it?

12 A That they acknowledge that this is what we
13 believe.

14 Q And that's what the form says?

15 A Yes. It does.

16 Q At the bottom -- we're going back to Exhibit
17 4, which is the interview form. At the bottom of the
18 second page, it says there are a few additional things
19 for the parent to do for enrollment to be finalized. And
20 number 2 is signed education agreement. What is that?

21 A That's a statement explaining that we have a
22 continuous enrollment agreement regarding tuition.

1 Q I'm not sure I understand. Does that mean
2 you're -- they are agreeing to pay the tuition?

3 A Yes. But we don't have them re-enroll each
4 year. So there is an explanation of a continuous nature
5 of our enrollment from year to year.

6 Q And the parents are required to sign this?

7 A Yes.

8 Q Is there anything else the parents are
9 required to sign beyond the core values and cooperation
10 statement?

11 A I -- I'm sorry. I -- I cannot hear you. That
12 whole part was garbled.

13 Q Okay. I'll start again. Beyond the documents
14 that we've already talked about, the cooperation
15 statement, the core values statement, and this education
16 agreement, that's referenced in Exhibit 4, are there any
17 other documents that the parents are required to sign as
18 part of the admission or enrollment process?

19 A There are a number of things the parents must
20 acknowledge with a signature in the application.

21 Q And the application is completed online; is
22 that correct?

1 A That is correct.

2 MR. SCOTT: Let's go back to Exhibit 3, please.
3 Go up one page -- to the top.

4 Q This document is include -- this is -- it says
5 application for admission. This is included in the
6 brochure, that's Exhibit 3. Does this reflect all of
7 the information that is required to fill out the
8 application online?

9 A I'm not sure how to answer that because this
10 is the basic application, but then there are medical
11 forms and various other things that are required.

12 Q All right. So there is some difference
13 between the information that's requested on this page
14 and what's required online?

15 MR. TUCKER: Objection to form.

16 Q Is that correct?

17 MR. TUCKER: Form.

18 A I'm -- I'm not sure I understand what you're
19 asking. The application is the same. It asks the same
20 information. The process involves other pieces.

21 Q Right. And the other pieces being medical
22 information and academic records. Anything else?

1 A No.

2 MR. SCOTT: Let's move on to Exhibit 5, please.

3 VIDEOGRAPHER: Stand by.

4 Q Ms. Dant, Exhibit 5 are some documents that
5 were provided to us in discovery by your lawyers. They
6 appear to be admission records; is that correct?

7 (EXHIBIT 5 MARKED FOR IDENTIFICATION)

8 A Yes.

9 Q Okay. And what do these documents show?

10 A They are database fields as a student walks
11 through the process.

12 Q Walks through what process?

13 A The enrollment process.

14 Q Okay. So let's look at the first page of
15 this. This is a student admissions record for one
16 particular applicant; is that correct?

17 A Yes.

18 Q All right. And is there a disposition
19 reflected on this page?

20 A Do you mean a status?

21 Q Well, was this student accepted? Are you able
22 to tell from looking at this page whether or not this

1 student was accepted?

2 A Yes, I am.

3 Q And what is -- what was the outcome?

4 A The student was not accepted.

5 Q And where -- is that where it says status
6 rejected?

7 A Yes, sir.

8 Q Okay. And are you able to tell why the
9 student was rejected?

10 A This is very tiny. So if they can be zoomed a
11 bit more and scrolled. Yes. If I looked through this,
12 I can see that a lot of things were not completed and
13 when the testing was conducted, the student did not pass
14 the test -- the exam.

15 Q You're looking at the box that's checked
16 testing conducted. And then in the box next says "did
17 not pass the exam."

18 A Right.

19 Q Okay. Let's go to the next page 2. Again,
20 this student appears to have been rejected, did not pass
21 the exam, correct?

22 A Yes.

1 Q Page 3, this student was rejected. Can you
2 tell why?

3 A There is no note there to indicate that
4 precisely.

5 Q Would there be any other records at the school
6 to indicate why the student's application was rejected?

7 A No.

8 Q And you don't know why they were rejected?

9 A I would have to conjecture.

10 Q Well, I'm just asking whether you know, as the
11 designee of Bethel, whether or not -- why this students
12 application was rejected and your answers is --

13 A I don't know -- I don't know. There were
14 preschool students. Often preschool students don't
15 proceed because they expected to be potty trained and
16 then were not.

17 Q But you don't know whether that's what
18 happened in this instance?

19 A No. I don't.

20 Q Okay. Let's go to the next page. This
21 application -- this student's application was rejected.
22 Are you able to tell why?

1 A Again, it's rather small, but it looks like it
2 says "below grade level" in several areas.

3 Q That's in the testing box?

4 A Yes.

5 Q Okay. And you're interpreting that where
6 there's a little -- a symbol, it says GL, I guess below
7 -- you're interpreting that as below grade level in
8 several areas; is that right?

9 A Yes.

10 Q Is there any additional text in that box that
11 we can't see on this document?

12 A I can't tell from that. The M indicates --
13 the M indicates there is.

14 Q And in order to find out what that says, you
15 have to go onto the database and look at it; is that
16 right?

17 A I believe so. This is how it prints out.

18 Q Let's go to the next page which is Bates
19 stamped at the top, Plaintiff's production 0447. Are
20 you able to tell why this student's application was
21 rejected?

22 A If you scroll down a bit, it appears they also

1 were below grade level.

2 Q And again, we can't see all the text in that
3 box, right?

4 A Right.

5 Q All right. The next page, Plaintiff's
6 production 448. Are you able to tell why this student
7 was rejected?

8 A Because they didn't pass.

9 Q Didn't pass the test?

10 A It's in the testing box. Yes.

11 Q Did not pass the test, correct?

12 A Right.

13 Q All right. The next page, 449, also rejected.
14 Are you able to tell why?

15 A Below grade level.

16 Q That's the testing box again?

17 A Yes, sir.

18 Q The next page, 450. Are you able to tell why
19 this student was rejected?

20 A Yes.

21 Q And what was that?

22 A They tested below grade level.

1 Q Okay. The next page, 451. This student was
2 rejected. And it looks like it was -- didn't pass the
3 test, correct?

4 A Yes, sir.

5 Q And the next page, 452, another student
6 rejected and it looks like because they didn't pass the
7 test, correct?

8 A Correct.

9 Q Next page, 453. Appears to be the same.
10 Rejected, did not pass the test, correct?

11 A Correct.

12 Q Next page, 454, another student rejected and
13 it looks like did not -- or tested below grade level,
14 correct?

15 A Correct.

16 Q Next page, 455. Are you able to tell why this
17 student was rejected?

18 A No. I cannot tell for sure.

19 Q In the testing box, it says that the student
20 -- it says assessed June 19, 2017, and then it says AC.
21 Do you know what that means?

22 A AC was the person who administered the test.

1 Q But you're not able to tell why this student
2 was rejected?

3 A No. That data was apparently not entered.

4 Q And there's no other record in schools
5 possession that reflects why that student was rejected;
6 is that right?

7 A No there is not. That is correct.

8 Q Okay. Let's go to the next page, 456. Are
9 you able to tell why this student was rejected?

10 A No. That detail is not in that field.

11 Q And there's no other document in the school's
12 possession that would show why that student was
13 rejected; is that right?

14 A That's correct.

15 Q The next page is 457. It looks like this
16 student was rejected because they tested below grade
17 level; is that right?

18 A Yes.

19 Q So -- in looking again at the testing box, the
20 AC, you're saying that's the initials of a person who
21 the gave the test; is that right?

22 A That's correct.

1 Q And who is -- do you know who AC is?

2 A Yes. That's Amaris Carrington.

3 Q And what is her job?

4 A She's my administrative assistant.

5 Q So the tests that the students take to -- when
6 they're applying, those tests are administered at
7 Bethel; is that right?

8 A Yes. Except that in a COVID world we have
9 done a couple of them via Zoom.

10 Q Okay. But it's not like the SAT where you go
11 to a big room to take it with 500 people in some
12 third-party location?

13 A No.

14 Q All right. The next page, 458. Are you able
15 to tell why this student's application was rejected?

16 A No. I'm not.

17 Q And there is no other documents that the
18 school has in its possession that would show why this
19 student was rejected, right?

20 A That's correct.

21 Q And this student was applying for -- well, it
22 says grade 4. Does that -- is that the grade that they

1 were in at the time of the application or the grade
2 they're seeking admission into?

3 A That would be the grade they were seeking
4 admission into.

5 Q Okay. The next page, 459. Do we know why
6 this students -- are you able to tell why this student's
7 application was rejected?

8 A No. I'm not. But again, that's -- that's a
9 pre-K student, so there is no testing.

10 Q And there's no document in the school's
11 possession that would show why this student was -- why
12 their application was rejected; is that correct?

13 A That's correct.

14 Q The next page, 460. It looks like this
15 student was rejected because they didn't pass the test,
16 correct?

17 A Correct.

18 Q The next page, 461, this says the student was
19 rejected. Are you able to tell why?

20 A Yes. Below grade level in all subjects.

21 Q That's the testing box again?

22 A Yes.

1 Q The next document 462, are you able to tell
2 why this student was rejected?

3 A No. I cannot tell.

4 Q And the school doesn't -- there is no
5 documents in the school's possession that would show why
6 this application was rejected; is that right?

7 A That's right.

8 Q And this student was seeking admission into
9 grade 7; is that right?

10 A Correct.

11 Q Next page, document 463. Are you able to tell
12 why this student was rejected?

13 A Yes.

14 Q Why?

15 A Seeking seventh grade, but scored a -- a third
16 grade level.

17 Q So unsatisfactory test results, correct?

18 A I'm sorry?

19 Q So her test result -- this student's test
20 result were not sufficient; is that correct?

21 A Correct.

22 Q The next page, 464. Are you able to tell why

1 this student's application was rejected?

2 A No. I'm not able to tell.

3 Q And the school is not in possession of any
4 documents that would show why this student was not
5 accepted; is that right?

6 A That is correct.

7 Q The next page, 465. Are you able to tell why
8 this student's application was rejected?

9 A No. It appears it was not completed.

10 Q Okay. What do you mean? Why do you believe
11 that?

12 A Because all the fields are virtually empty.

13 Q And does the school know why the application
14 was not completed?

15 A No. We don't.

16 Q Okay. The next page, 466. Looks like this
17 student was rejected for below grade level test; is that
18 correct?

19 A That is correct.

20 Q Any other reason?

21 A No.

22 Q The next page, 467. Student was rejected. It

1 says in the testing box that they were below grade level
2 in math; is that correct?

3 A That is correct.

4 Q Is that the reason why the student's
5 application was rejected?

6 A Yes.

7 Q The next page, 468, the student's application
8 was rejected. And can -- are you able to tell why?

9 A No. I'm not.

10 Q Okay. And the school doesn't have any
11 documents in its possession that would show why this
12 student's application was rejected; is that correct?

13 A That's correct.

14 Q All right. Let's go back to the handbook,
15 which is Exhibit 2, page 7. About two-thirds of the way
16 down in bold, it says Statement of Non-Discrimination,
17 do you see that?

18 A Yes.

19 Q Okay. When was that statement first added to
20 the admission's policy?

21 MR. TUCKER: Objection to form.

22 A I'm not sure exactly what you mean. The

1 heading? The precise wording? It's been in our
2 handbook forever.

3 Q The statement of non-discrimination. I'm
4 asking whether -- when that was for -- when that first
5 became part of the Bethel's admissions policy?

6 MR. TUCKER: Objection to form.

7 A I'm not sure exactly what statement you're
8 talking about in regard to which paragraph. And
9 20 years ago probably, a long time.

10 Q Do you know when it was at -- when it was
11 first added?

12 A I do not.

13 Q Who drafted the language in the statement of
14 non-discrimination?

15 A Me.

16 Q Anybody -- did anybody else participate in
17 that process?

18 A I'm sure Mrs. Gray and Dr. Green read it.

19 Q Do you have a specific recollection of them
20 providing any input on this statement of non-
21 discrimination?

22 A No.

1 Q It says in the statement of non-discrimination
2 in the second -- at the first paragraph, second sentence
3 that "it," being Bethel "does not discriminate on the
4 basis of race, color, national and ethnic origin in the
5 administration of its educational policies, admissions
6 policies, et cetera." I noticed that the statement of
7 non-discrimination does not include sexual preference. A
8 statement that the school does not discriminate based on
9 sexual preference. Is there any particular reason why
10 that is not included?

11 A Its language was the language that was
12 required for non-profits by the IRS.

13 Q How do you know that?

14 A Having been told that.

15 Q And who told you that?

16 A Don't remember precisely.

17 Q Okay. So some -- this is language that you
18 got --

19 A That statement preexisted me.

20 Q Okay. That's what I was trying to find out.
21 So this statement was already in the handbook before you
22 ever started working on it; is that correct?

1 A Yes, sir.

2 Q Okay. Do you know who originally put this
3 language in the handbook or when?

4 A I do not.

5 Q All right. Has Bethel ever had any
6 prospective student apply for admission to Bethel
7 Christian Academy who is homosexual?

8 MR. TUCKER: Objection to form. Speculation.

9 Q You can answer.

10 A Not that I'm aware of.

11 Q If a student applied to Bethel Christian
12 Academy and who was qualified for admission, but the
13 school learned was homosexual, would Bethel admit that
14 student?

15 A That's a hypothetical situation. All students
16 who apply and meet our academic requirements are welcome
17 to attend.

18 Q Even if they're homosexual?

19 A All students who apply and meet our academic
20 requirements are welcome.

21 Q Even if they are homosexual, yes?

22 A All students.

1 Q Including homosexual students, correct?

2 A Including any student.

3 Q Including homosexual students, yes?

4 A We don't disqualify any student that is
5 qualified to meet our academic requirements. That would
6 include all students.

7 Q Including homosexual students, correct?

8 A Again, all students.

9 Q Okay. Including homosexual students, yes or
10 no?

11 MR. TUCKER: Asked and answered.

12 A We don't discriminate against any students.

13 Q It's a very simple question. If a student is
14 qualified for admission, and turns out to be homosexual
15 sexual would the school --

16 MR. TUCKER: Objection. Asked and answered.

17 She's already answered it.

18 MR. SCOTT: Well, I don't agree -- I don't
19 agree, Counsel, but I'm going to ask one more time.

20 MR. TUCKER: All would include every single
21 student of every orientation.

22 BY MR. SCOTT:

1 Q Including homosexual students, yes or no?

2 A All students. Any student.

3 Q What about students who don't dress or
4 identify with their biological gender?

5 A Any student who meets our qualifications and
6 understands our conduct expectations would be admitted.

7 Q What if the student says, "I don't want it.
8 I'm a boy and I don't want to dress like a boy, I want
9 to dress like a girl"?

10 A That would be a hypothetical situation I have
11 never faced.

12 Q So you don't know whether you would admit that
13 student or not?

14 MR. TUCKER: Objection. Speculation. Asked
15 and answered.

16 A I would have to speculate and I'm not wanting
17 to do that.

18 Q But the school has a policy, doesn't it?
19 Against students not dressing or identifying with their
20 -- in accordance with their biological gender?

21 MR. TUCKER: Objection to form.

22 A We have a number of conduct policies --

1 Q Including one that says --

2 A -- it applies to all students.

3 Q Okay. My question is: the school has a policy
4 that prohibits students from not dressing in accordance
5 with their biological gender, isn't that correct?

6 A We have a dress code policy.

7 Q Right. And what -- and it says that if you --
8 that you were required to dress in accordance with your
9 biological gender, correct?

10 MR. TUCKER: Objection to form.

11 Q You can answer.

12 A I don't know precisely the wording in the
13 discipline policy in the handbook.

14 Q All right. Well --

15 A We do require that -- we do require that all
16 students be in the proper uniform.

17 Q Okay. Well, it says right here at the
18 document -- in the document that we're looking at, which
19 is the handbook. Which is Exhibit 1, to the complaint
20 that the file in this case and it says in the last -- in
21 the second-to-last, excuse me, the last sentence on page
22 7: "Faculty, staff, and students are required to

1 identify with, dressing in accordance with, and use the
2 facilities associated with their biological gender." Do
3 you see that?

4 A Yes. I do.

5 Q Okay. And so my question is if you have an
6 applicant -- student applicant who says, "I don't want
7 to comply with that policy." Would you admit that?

8 MR. TUCKER: Objection. Speculation.

9 A That's a hypothetical situation I've never had
10 to face.

11 Q If you did face it, what would you do?

12 MR. TUCKER: Objection. Speculation.

13 A I can't answer that question. I don't want to
14 guess.

15 Q What things would you consider in making that
16 kind of a decision?

17 A I feel like that's still hypothetical.

18 Q Well, I'm allowed to ask you hypothetical
19 questions, Ms. Dant. If you don't -- if you refuse to
20 answer them, we'll deal with it. But there's no
21 probation on me asking you a hypothetical questions
22 here.

1 MR. TUCKER: And there is no prohibition to me
2 objecting to the form of the question. She's
3 answered the question.

4 MR. SCOTT: She hasn't answered the question.

5 THE WITNESS: We don't discriminate -- we don't
6 discriminate against the students that apply and are
7 qualified to meet our academic requirements and who
8 want to be in our school.

9 BY MR. SCOTT:

10 Q What about students who don't want to follow
11 this statement that I just read to you from the
12 handbook. Do you admit them?

13 MR. TUCKER: Speculation. Objection.
14 Speculation. Objection. Asked and answered.

15 A I think I've answered that question. I don't
16 know what else to tell you.

17 Q Okay. It says in the first sentence about
18 what's -- let me ask you a different question. Has
19 Bethel ever had any prospective student apply who did
20 not identify or dress in accordance with their
21 biological gender?

22 A Not to my knowledge.

1 Q Let me direct your attention to the last
2 sentence of the third paragraph on page 7 of Exhibit 1
3 -- no, I'm sorry, Exhibit 2. I apologize. Yes. Thank
4 you. It says, "Parents must understand that continued
5 enrollment of their children is dependent on their
6 support of the school."

7 A My screen just went black again. I'm so
8 sorry, my screen just went black again.

9 Q All right.

10 MR. SCOTT: Why don't we take a break? Let's
11 take a ten-minute break.

12 COURT REPORTER: Okay. We are off the record.

13 (OFF THE RECORD)

14 COURT REPORTER: We are back on the record.

15 BY MR. SCOTT:

16 Q Okay. Ms. Dant, let me refer you to the third
17 paragraph of page 7 of Exhibit 2, what we were talking
18 about before the break. It says, "Parents must
19 understand that continued enrollment of their children
20 is dependent on their support of the school, its staff,
21 and its policy." Do you see that?

22 A Yes.

1 Q Okay. Does that mean a student who does not
2 comply with the policies in the handbook is no longer
3 entitled to be enrolled?

4 A It has nothing to do with enrolling, it's once
5 they're in the school.

6 Q "Continued enrollment" is what it says, right?

7 A Yes.

8 Q It says so. Continued enrollment is dependent
9 on their support of the school, its staff, and its
10 policies, right?

11 A Yes.

12 Q So is continued -- does that mean a student
13 who does not support the school's policies can be
14 expelled?

15 A It says a student who acts contrary to our
16 policies and in opposition to them may find themselves
17 in that situation.

18 Q What situation?

19 A Being asked to withdraw.

20 Q I noticed that there's -- going down back to
21 the statement of non-discrimination in the second
22 paragraph, it states that, "Bethel Christian Academy

1 supports the biblical view of marriage, defined as a
2 covenant between one man and one woman." Do you see
3 that?

4 A Yes.

5 Q Okay. Why is that in the statement of
6 non-discrimination?

7 A It was not my perception that it was in the
8 statement of non-discrimination. It was a separate
9 statement having to do with conduct expectations.

10 Q And -- well, why is it, you know, why does it
11 appear on this page?

12 A Because we accept students from anywhere and
13 have open enrollment, it was our understanding that
14 clarity regarding who we are, and what we expect was a
15 good thing.

16 Q Does it mean a student whose behavior does not
17 align with Bethel's view of marriage, i.e., that it's a
18 marriage that is a covenant between one man and one
19 woman you -- has to withdraw the from school?

20 A Keep in mind that we have preschool through
21 eighth grade students, and so their actions have nothing
22 to do with marriage.

1 Q Why do you say that?

2 A Because they're too young.

3 Q But then why does Bethel Christian Academy --
4 if this -- if it has no application to them because it's
5 beyond them, why is Bethel Christian Academy including a
6 statement about it's difficult view of marriage in its
7 admissions policy?

8 MR. TUCKER: Objection to form.

9 A As I stated, I don't believe that statement is
10 part of our admissions policy, as it refers also to
11 faculty and staff. It's a statement of our belief.

12 Q It's a statement of the school's belief about
13 marriage, right?

14 A Yes.

15 Q And Bethel is putting that statement on the
16 same page with -- I understand your view is it's not
17 part of admissions policy; is that right?

18 A That's correct.

19 Q But it's on the page with a heading at the
20 top, it says Admissions Policy, correct?

21 A Yes.

22 Q And I think you just testified a few minutes

1 ago that Bethel's view of marriage is irrelevant to
2 students because they're too young, correct?

3 MR. TUCKER: Objection to form.
4 Mischaracterizes prior testimony.

5 A No. I stated that their actions as children
6 would not be relevant.

7 Q Does Bethel Christian Academy teach or include
8 in its curriculum any teachings concerning marriage?

9 MR. TUCKER: Rob, is this part of your
10 corporate depo or are we molding this into her
11 individual capacity? I'm just trying to figure out
12 where we're at as to whether I need to object to the
13 scope or not.

14 MR. SCOTT: I think it's fairly within the
15 subject areas.

16 MR. TUCKER: Where would that be? What topic?

17 MR. SCOTT: Allegations in the complaint.
18 Factual basis for the allegations in the complaint.

19 MR. TUCKER: What? The sub -- the actual
20 subjects that are taught in each individual grade
21 level?

22 MR. SCOTT: No. I asked whether there were any

1 teachings concerning marriage.

2 MR. TUCKER: Okay. Go ahead.

3 THE WITNESS: I don't believe that's part of
4 our curriculum. We focus on biblical content.

5 BY MR. SCOTT:

6 Q Has Bethel ever had a student after being
7 admitted disclose that he or she was homosexual to the
8 school?

9 A I'm sorry. I'm sorry. You broke up a bit
10 there.

11 Q I'm sorry. It's -- I keep looking away when
12 I'm speaking. That's my fault. I'll try to
13 stop doing that. My question is: Has Bethel ever had a
14 student after being admitted, disclose to the school if
15 he or she is homosexual?

16 A I can't say definitively, no, not to me. Not
17 to anyone I know.

18 Q Okay. But this question I'm asking you in
19 your capacity as designee for Bethel Christian -- for
20 the plaintiff in this case.

21 A Then I would say no.

22 Q Has Bethel ever had a student engage in

1 conduct at the -- that is inconsistent with Bethel's
2 view that marriage is defined as a covenant between one
3 man and one woman?

4 A No.

5 Q If that were to happen, what would Bethel do
6 under those circumstances?

7 MR. TUCKER: Objection to speculation. Form.

8 A I would have to assume we would carry our
9 discipline policies as we do with all students.

10 Q Has Bethel ever had a student that was
11 admitted who did not identify or dress in accordance
12 with their biological gender?

13 A No.

14 Q All right. Well, you just referred to the
15 discipline policy. Let's take a look at that. I think
16 it's on page 34 -- 32. Is this the discipline policy?

17 A Part of it, yeah.

18 Q Where does it start? Do you know, Ms. Dant?

19 A It just -- it just encompasses more than this
20 page.

21 Q Okay. Well, let's talk about this page first.
22 So it lists -- this page lists a number of offenses

1 which are described as of a more serious nature, right?

2 A Yeah.

3 Q And these offenses, according to this policy,
4 may result in suspension or expulsion from the school,
5 correct?

6 A Correct.

7 Q Okay. And this is -- this -- and you -- if I
8 understand your earlier testimony, you are -- you
9 oversee the discipline of students at the school; is
10 that correct?

11 A Yes.

12 Q So if a student ought to be expelled or
13 suspended as a result of any offenses listed on this
14 page that we're looking at, page 34, Exhibit 2, it will
15 be your decision whether or not to suspend or expel that
16 student?

17 A Yes.

18 Q One of the listed offenses here is
19 inappropriate relationships. Do you see that?

20 A I do.

21 Q Okay. What does Bethel mean by inappropriate
22 relationships?

1 A For children, it means romantic relationships
2 are inappropriate.

3 Q When you say children, does that apply to all
4 students at the school?

5 A We believe all of our students are children.

6 Q Including the middle school students?

7 A Yes.

8 Q And when you say a romantic relationship, what
9 do you mean?

10 A I don't know how else to describe romantic.
11 Crushes, I like you, you like me, we're in love, all of
12 that.

13 Q So if a student is engaged in a relationship
14 like you just described, across the I like you, you like
15 me, that's potential grounds for suspension or expulsion
16 from the school; is that correct?

17 A Any inappropriate relationships or
18 communication of that nature would be grounds for
19 discipline.

20 Q And according to the page we're looking at,
21 possible suspension and expulsion, correct?

22 A Possibly.

1 Q Are there any other type of relationships that
2 the school believes are inappropriate other than
3 romantic?

4 A I don't think so.

5 Q So would two students who are holding hands,
6 would that be considered inappropriate relationship?

7 MR. TUCKER: Objection to form.

8 A Specific action would not necessarily be
9 interpreted as a particular thing.

10 Q Okay. Well, would holding hands be something
11 that might -- that the school might think is
12 inappropriate?

13 A I think it would depend on how old these
14 children were and other types of judgment factors that I
15 can't really speak to in a general sense.

16 Q And what about kissing?

17 A No. We told them nobody should be kissing
18 anybody.

19 Q So if the -- if two students are kissing each
20 other, that's inappropriate relationship in the school's
21 view and they could potentially be disciplined?

22 A I would not necessarily deem it as an

1 inappropriate relationship, but it would be an
2 inappropriate action.

3 Q Right. Well, I'm just -- I'm trying to
4 understand what the language in the book -- in the
5 handbook that says inappropriate relationships could be
6 potential grounds for suspension or expulsion. I'm
7 trying to understand what that includes. So that's why
8 I asked you whether it would include kissing, two
9 students were kissing each other.

10 A Ongoing actions of physical contact and public
11 displays of affection would seem to be the definition
12 here of an inappropriate relationship.

13 Q What about hugging?

14 A I'm sorry. I really -- I'm having difficulty
15 hearing you.

16 Q Sorry. What about hugging?

17 A We tell all of our students to keep their
18 hands to themselves.

19 Q Has any student ever been expelled from Bethel
20 for engaging in an inappropriate relationship?

21 A No.

22 Q Has ever -- has any student ever been

1 suspended from Bethel for engaging in inappropriate
2 relationship?

3 A Yes.

4 Q How many instances of that? Either one.

5 A One.

6 Q And when was that?

7 A I believe that's been provided to you. I
8 don't remember the precise year.

9 Q Other than that one instance, has any other
10 student ever been suspended from Bethel for an
11 inappropriate relationship?

12 A No.

13 Q The policy that we're looking at also states
14 that -- it covers offenses over the Internet, including
15 social media. Do you see that?

16 A I believe it says that. Yes. I see it.

17 Q Does the school monitor students' social media
18 accounts?

19 A No.

20 Q Has any student ever been disciplined for
21 inappropriate social media posts?

22 A No.

1 Q The policy states that students may be
2 required to give the school access to the social media
3 accounts. Do you see that?

4 A Yes.

5 Q Has this ever happened?

6 A No.

7 Q All right. Let's talk about the BOOST
8 program. When did Bethel first begin participating in
9 the BOOST program?

10 A I think that was the '16-'17 school year.

11 Q And how did that come about?

12 A I don't remember precisely, but we had been
13 participating in the non-public textbook program for a
14 number of years, so I suspect it was through learning
15 about the BOOST program in that way.

16 Q And who at the school is in charge of
17 administering the school's participation in BOOST?

18 A Me.

19 Q Is it fair to say that you were the primary
20 contact between the people who ran the BOOST program in
21 school?

22 A Yes.

1 Q And who did you deal with? Who are the names
2 of the people that you dealt with at the stay with
3 respect to BOOST?

4 A Throughout the entire program?

5 Q Yeah. Just like the names of the people that
6 you talked to or e-mailed with that program.

7 A Prior to being expelled from the program, I
8 don't know that I had personal contact with anyone. We
9 filled out the forms online, we submitted them. We were
10 notified of our acceptance. We followed through all the
11 various requirements.

12 Q And that was -- you said you first -- the
13 schools first started participating, you know, 2016-'17
14 school year; is that right?

15 A Yes, sir.

16 Q And approximately how many students at that
17 all participate in that year?

18 A I think about -- about 13.

19 Q And then Bethel also participated the
20 following year, 2017 to 2018; is that right?

21 A Yes, sir.

22 Q And approximately how many students

1 participated that year?

2 A Approximately 18.

3 Q And what was Bethel's understanding of the
4 purpose of the BOOST program?

5 A To provide the means by which low-income
6 families could attend private school.

7 Q And you mentioned that you -- when you first
8 began participating, that you pulled out forms online,
9 notified the people accepted. Were you the person who
10 completed the applications?

11 A As best I recall, yes.

12 Q And at that time, was Bethel aware that in
13 order to participate in the BOOST program that they had
14 to agree that would not discriminate against students in
15 admissions based on race, sex, national origin, or
16 sexual orientation, correct?

17 A Correct.

18 Q And Bethel, when you submitted the online
19 application you had to acknowledge or agreed to some
20 assurances to that effect, correct?

21 A We did have to sign that statement. Yes.

22 Q And you were the person who would sign off on

1 them, right?

2 A Yes.

3 Q And Bethel also participated in a couple of
4 related programs, the agent schools program, and a
5 textbook and technology program; is that right?

6 A That's correct.

7 Q And that was the same timeframe, 2016, 2017,
8 2018, 2019; is that right?

9 A We participated in the other two programs
10 prior to that as well.

11 Q Okay. And the other two programs also
12 required Bethel sign or prove assurances about not
13 having any discrimination admissions, correct?

14 A I don't recall precisely what it involved
15 prior to my taking over on those programs since they
16 pre-existed me.

17 Q Well, who was in charge before you taking
18 over?

19 A The former principal.

20 Q And who was that?

21 A Alice Green.

22 Q When did Ms. Green leave?

1 A I'm sorry, could you repeat that?

2 Q When did Ms. Green leave her position as
3 principal?

4 A When I took over in 2016.

5 Q Is Ms. Green related to Pastor Green?

6 A Yes.

7 Q Is it his wife?

8 A Yes.

9 Q Okay. I want to show you some documents. Can
10 we go to Exhibit 8, please?

11 (EXHIBIT 8 MARKED FOR IDENTIFICATION)

12 VIDEOGRAPHER: Stand by.

13 COURT REPORTER: And, Mr. Scott, I'm sorry to
14 interrupt. This is the court reporter. You are
15 trailing off a little bit during some of your
16 sentences.

17 THE WITNESS: I'm still having -- I'm having
18 trouble hearing you. I don't know if you can hear
19 me.

20 MR. SCOTT: I can hear you fine. I'll try to
21 do better job of speaking directly into the
22 computer.

1 VIDEOPHOTOGRAPHER: Sharing now.

2 BY MR. SCOTT:

3 Q Okay. I want to show you what's been marked
4 as Exhibit 8, this is the first two-and-a-half pages are
5 a series of e-mail addresses to whom this e-mail was
6 sent. And then the text begins on page three. And this
7 concerns the assurances and instructions for applying
8 for BOOST for 27, excuse me, for 2017-2018 school year.
9 Do you see that?

10 A I do, but it's rather tiny.

11 Q Can we make it bigger, please? Thanks. If
12 you go to -- go down two pages, please. Then you'll
13 see, beginning on page 3155.001, you'll see the BOOST
14 assurances for the school year 2017, 2018. Do you see
15 that?

16 A Yes.

17 Q All right. And these were the assurances that
18 Bethel agreed to abide by participating in the BOOST
19 program, correct?

20 A Yes.

21 Q Can we go back to the first page, please? The
22 first page of the Exhibit. Yes. Thank you. If you

1 look about a third way down, there is an e-mail address
2 to somebody named, pattiwecker@teambethel.org. Do you
3 see that?

4 A No. Yes. I see it.

5 Q Okay. Who is Patti Wecker?

6 A She was functioning as an assistant principal.

7 Q Why, and how long was she in that -- strike
8 that. When was she in that role?

9 A That one year.

10 Q What year?

11 A I'm sorry, 2016, '17.

12 Q And does she still work at the school?

13 A No. She does not.

14 Q When did she leave?

15 A The following year.

16 Q 2018?

17 A '17, '18.

18 Q Do you know why she left?

19 A She retired.

20 Q How long did she work at the school? Just
21 that year?

22 A 20-some years.

1 Q What was her job before she was starting as
2 acting principal? Or -- excuse me, acting as assistant
3 principal?

4 A She had a number of different roles over the
5 years, development -- development director, finance.

6 Q And it's your understanding she's retired now?

7 A Yes.

8 Q So this e-mail looks like it went to her. Was
9 she working on the BOOST application at that time?

10 A She may have participated.

11 Q Did you also receive this e-mail?

12 A I don't recall.

13 Q Let's go to Exhibit 9, please.

14 (EXHIBIT 9 MARKED FOR IDENTIFICATION)

15 VIDEOGRAPHER: Stand by.

16 Q Exhibit 9 is a letter dated October 13, 2017
17 from Matthew Gallagher to BOOST-eligible schools. This
18 document was attached to the Plaintiff's Motion for
19 preliminary injunction filed in this case. Have you
20 seen this letter before?

21 A Yes.

22 Q And the letter relates to the assurances that

1 the school needed to sign in order to participate in the
2 BOOST program, correct?

3 A Correct.

4 Q And Bethel agreed to those assurances in order
5 to participate in the program, correct?

6 A Correct.

7 Q Let's go to Exhibit 9A, please.

8 (EXHIBIT 9A MARKED FOR IDENTIFICATION)

9 VIDEOGRAPHER: Stand by.

10 Q Ms. Dant, Exhibit 9A is another e-mail that
11 went to, among other people, Patti Wecker. Do you see
12 that? pattiwecker@teambethel.org. Quarter the way
13 down?

14 A Yeah. See it.

15 Q Okay. Do you know if you also received this
16 e-mail?

17 A I don't know that I did. My name is not
18 there.

19 Q Let's go to the second-to-last page. This is
20 a letter attached to e-mail dated December 19, 2017,
21 from Matthew Gallagher to BOOST schools. Have you seen
22 this letter before?

1 A I'm not sure.

2 Q Do you remember being notified in 2017 that
3 the Boost program was going to review school handbooks
4 to determine compliance with the language in the non-
5 discrimination provision law?

6 A Yes. I'm just not sure I remember this
7 precise letter.

8 Q So prior to December 17, 2017, when Bethel got
9 this letter from Mr. Gallagher regarding the handbooks,
10 had you had any communications with anybody at the State
11 Board of Education or BOOST about Bethel's compliance
12 with the non-discrimination version in the law?

13 A It's hard to say precisely before this letter.
14 We were in the program in '17-'18. And so whatever
15 communication was involved in ordering books from the
16 nonpublic school program or administering what paperwork
17 was required for the BOOST program, we engaged in that.

18 Q Right. But I'm specifically asking about
19 communications that relate to the nondiscrimination
20 provision in the law. Do you recall any such
21 communications prior to December 19, 2017?

22 A Are you referring to a particular document

1 that I could see because I can't remember the chronology
2 of that specifically?

3 Q Right. I'm not referring to any documents.
4 I'm asking you whether Bethel has any recollection of
5 any communications prior to the date of this exhibit
6 about complying with the nondiscrimination provisions?

7 A I don't have any recollection other than what
8 was communicated via these letters.

9 Q Okay. So you don't have any recollection or
10 Bethel -- I'm asking you as a designee of Bethel,
11 whether Bethel has recollection of any verbal
12 communications about compliance with the
13 nondiscrimination provision prior to December 19, 2017?

14 A No. I do not.

15 MR. SCOTT: Let's go over to Exhibit 10.

16 VIDEOGRAPHER: Stand by.

17 Q Ms. Dant, Exhibit 10 is a letter dated
18 March 5, 2018, to you from Monica Kearns at the Maryland
19 State Department of Education. Have you seen this
20 before?

21 (EXHIBIT 10 MARKED FOR IDENTIFICATION)

22 A Yes.

1 Q Okay. And was this your first notice that the
2 administrators of the BOOST program had a concern about
3 language in Bethel's handbook?

4 A I don't know if it was the first notice or
5 not.

6 Q Do you recall any verbal communications from
7 anyone at the state about Bethel's handbook in the
8 non-discrimination version prior to this letter?

9 A Verbal communication?

10 Q Yes.

11 A Like -- like someone called me?

12 Q Right.

13 A No. I don't recall anyone calling me about
14 that.

15 Q Or you calling them or having a conversation
16 face to face?

17 A I may have made a phone call inquiring about
18 the status of our BOOST application at some point in --
19 when this was all happening, but most things were
20 probably via e-mail.

21 Q Okay. And what can you tell me about that one
22 phone call that you just mentioned?

1 A Well, like I say, I may have made a phone call
2 inquiring about the status of our application. So I --

3 Q So you --

4 A -- would have said, "What's the status of our
5 application?"

6 Q Okay. But you don't have a specific
7 recollection of that conversation?

8 A No. No.

9 Q And you don't -- and you don't know who it was
10 with?

11 A It was probably with Monica Kearns.

12 Q Are you sure of that?

13 A Probably.

14 Q You don't know for sure?

15 A No.

16 Q And you don't know --

17 A I know I had not spoke -- I -- I did not speak
18 to anyone else.

19 Q Okay. You did speak to Monica Kearns at some
20 point?

21 A I believe so.

22 Q Okay. But you don't know when?

1 A I don't recall.

2 Q And what, if anything, do you recall her
3 saying to you in this conversation?

4 A That decisions were being made and that she
5 did not -- they did not have an answer yet for me as to
6 our status.

7 Q Do you remember anything else that she said to
8 you in that conversation?

9 A Not specifically, no.

10 Q Okay. And that was the only conversation you
11 can recall having with her; is that right?

12 A That's correct.

13 Q And do you have any recollection of speaking
14 to anybody else at the state about BOOST other than
15 Ms. Kearns?

16 A No.

17 Q Do you know if anybody else at Bethel ever
18 talked to anybody else at the state about BOOST?

19 A No.

20 Q Okay. Going back to Exhibit 10, this letter
21 asked you to provide some additional information, in
22 fact, it requested a written response by March 14, 2018

1 on page 2, right?

2 MR. SCOTT: Go to page 2, please.

3 THE WITNESS: Can you make it a little larger?
4 Thank you. Okay. I'm sorry, what was your
5 question?

6 BY MR. SCOTT:

7 Q Ms. Kearns is asking you to provide a res -- a
8 written response by March 14, 2018, correct? First full
9 paragraph on page 2.

10 A Yeah. I have found it. Yes. I see that
11 request.

12 Q Okay. And did you personally prepare that
13 response?

14 A I did.

15 Q Did you consult with anybody in connection
16 with that response?

17 A I may have discussed it with Dr. Green.

18 Q Do you have a specific recollection of doing
19 that?

20 A No. I don't.

21 MR. SCOTT: Let's go to Exhibit 11, please.

22 (EXHIBIT 11 MARKED FOR IDENTIFICATION)

1 VIDEOPHOTOGRAPHER: Stand by.

2 BY MR. SCOTT:

3 Q Ms. Dant, Exhibit 11 is an e-mail and an
4 attachment from you to Monica Kearns, dated
5 March 13, 2018; is that right?

6 A Yes.

7 Q And the attachment, which is page 3, this is
8 your response to Ms. Kearns' request for a response,
9 correct?

10 A Yes.

11 Q And you drafted this and signed it on the next
12 page; is that correct?

13 A I believe --

14 MR. SCOTT: Go to ne --

15 THE WITNESS: -- sir, you're not showing me the
16 -- you're not showing me the next page, so I can't
17 confirm that. Yes.

18 BY MR. SCOTT:

19 Q Okay. You can now see the second page,
20 correct?

21 A I see it now, yes.

22 Q All right. And that's your signature?

1 A Yes.

2 Q All right.

3 MR. SCOTT: Let's go to Exhibit 12, please.

4 (EXHIBIT 12 MARKED FOR IDENTIFICATION)

5 VIDEOGRAPHER: Stand by.

6 BY MR. SCOTT:

7 Q Okay. Exhibit 12, Ms. Dant, is an e-mail
8 chain between you and Monica Kearns. And on the first
9 page, about halfway down, you are ta -- you are asking
10 her about statements -- copies of statements that you
11 were planning to take to the board meeting -- the BOOST
12 board meeting. Do you see that?

13 A Yes.

14 Q All right. Did you attend that board meeting?

15 A No.

16 Q But at the time you wrote this -- these e-
17 mails, you were planning to go; is that right?

18 A Correct.

19 Q What -- is there -- was there a reason you
20 didn't go?

21 A I don't recall. Something must have come up.

22 Q All right. And again, the -- these e-mails

1 reflect, you know, you and Mo -- and Ms. Kearns
2 communicating back and forth about the BOOST program and
3 Bethel's application or desire to stay in the program,
4 but you don't recall any other -- you don't recall any
5 verbal communications you had with her other than what
6 you already described to me, correct?

7 A Correct.

8 MR. SCOTT: All right. Let's go to Exhibit 13.

9 (EXHIBIT 13 MARKED FOR IDENTIFICATION)

10 VIDEOGRAPHER: Stand by.

11 BY MR. SCOTT:

12 Q All right. So this Exhibit 13 is an e-mail
13 dated May 2, 2018, from you to Monica Kearns, correct?

14 A Correct.

15 Q And you're telling her that you're not going
16 to be able to make the meeting, correct?

17 A Correct.

18 Q And then you attach a copy of your statement
19 that you want the board to consider, correct?

20 A Correct.

21 Q Did you ever attend any BOOST board meetings?

22 A No. I did not.

1 MR. SCOTT: Let's go to Exhibit 14, please.

2 (EXHIBIT 14 MARKED FOR IDENTIFICATION)

3 VIDEOGRAPHER: Stand by.

4 BY MR. SCOTT:

5 Q Exhibit 14, is this the statement that you
6 asked Monica Kearns to submit to the board in May of
7 2018?

8 A Yes. It is.

9 MR. SCOTT: Let's go to Exhibit 15.

10 (EXHIBIT 15 MARKED FOR IDENTIFICATION)

11 VIDEOGRAPHER: Stand by.

12 BY MR. SCOTT:

13 Q Exhibit 15 is a letter to you from Monica
14 Kearns dated May 25, 2018 asking you to answer a couple
15 of questions from the BOOST board, correct?

16 A Correct.

17 Q You received this letter?

18 A Yes.

19 MR. SCOTT: Let's go to Exhibit 16.

20 (EXHIBIT 16 MARKED FOR IDENTIFICATION)

21 VIDEOGRAPHER: Stand by.

22 BY MR. SCOTT:

1 Q Okay. Exhibit 16 is a letter dated
2 May 29, 2018, from you to Monica Kearns and the BOOST
3 board; is that right?

4 A Yes.

5 Q And you wrote this letter?

6 A Yes.

7 Q And you sent it to Ms. Kearns, correct?

8 A Correct.

9 Q And this accurately describes Bethel's
10 position with respect to questions numb -- questions
11 numbers 1 and 2 that Ms. Kearns asked you in Exhibit 15,
12 correct?

13 A Correct.

14 MR. SCOTT: Let's go to Exhibit 17.

15 (EXHIBIT 17 MARKED FOR IDENTIFICATION)

16 VIDEOGRAPHER: Stand by.

17 BY MR. SCOTT:

18 Q This is a letter -- Exhibit 17 is a letter
19 dated August 8, 2018, from Matt Gallagher to you. Have
20 you seen this before?

21 A Yes.

22 Q Okay. And you received this letter?

1 A Yes.

2 Q Going back to Exhibit 16. Did you draft this
3 letter yourself, Exhibit 16?

4 A Yes.

5 Q Did anybody else participate?

6 A Not that I recall.

7 MR. SCOTT: Let's go to Exhibit 20.

8 VIDEOGRAPHER: Stand by.

9 MR. SCOTT: That's not the right exhibit. Let's
10 try 19. Let's try 18. No. Okay.

11 MR. TUCKER: Rob, do you want to take a lunch
12 break?

13 MR. SCOTT: Yeah. Why don't we do that? Yeah.
14 I've got a issue with my exhibits, so yeah. Why
15 don't we do that? A half an hour?

16 MR. TUCKER: Yeah. That works. How mu -- how
17 long do you think you've got?

18 MR. SCOTT: I don't know. Probably an hour.

19 MR. TUCKER: Okay. All right. Well, we'll
20 come back about 30 minutes.

21 MR. SCOTT: Okay. Thanks.

22 MR. TUCKER: Thank you, guys.

1 COURT REPORTER: Thank you.

2 VIDEOGRAPHER: If we're off the record.

3 COURT REPORTER: We are off the record.

4 (OFF THE RECORD)

5 COURT REPORTER: We're on the record.

6 MR. SCOTT: Good afternoon. We're back from
7 lunch break. Can we call up Exhibit 6, please?

8 (EXHIBIT 6 MARKED FOR IDENTIFICATION)

9 VIDEOGRAPHER: Stand by.

10 BY MR. SCOTT:

11 Q Thank you. Ms. Dant, I've had marked as
12 Exhibit 6 to your deposition a multi-page document that
13 I received from your attorneys related to discipline of
14 certain students. Can you tell me what this is?

15 A It's a printout of a report regarding student
16 behavior.

17 Q Did you print this out?

18 A My assistant did.

19 Q And what parameters were used to print this
20 out?

21 A She had date parameters.

22 Q Any others?

1 A No.

2 Q So what does this reflect?

3 A Students who had disciplinary action taken.

4 Q From January 2015 until, looks like, 2018; is
5 that right?

6 A I believe so.

7 Q Have there been any additional disciplinary
8 actions taken against students since April of 2018?

9 A I suppose that's possible.

10 Q Do you know?

11 A Not off the top of my head. These were the
12 date parameters we were given.

13 Q Okay. What were the date parameters that you
14 were given?

15 A I don't remember precisely other than what you
16 just said, 2015 to 2018.

17 Q Okay. And is this -- this is a computer
18 database -- this document was printed from a computer
19 database; is that right?

20 A That's correct.

21 Q And how is the information put into the
22 database, who does that?

1 A It can be put in by an administrator. If it's
2 simply classroom talking, it can be put in by a teacher.

3 Q Okay. And there's a column here where it
4 says, "Staff." Or across the top, you'll see multiple
5 headings, there's one that says, "Staff," and then
6 there's names under there including your name for a
7 number of these. Is that -- are those names under the
8 staff heading, the people who input the data into the
9 database?

10 A Yes.

11 Q And there's a column at the end called,
12 "Demerits." Do you see that?

13 A Yes.

14 Q What is that?

15 A It's just a database's designation of an
16 incident.

17 Q What are the numbers mean? De -- what do the
18 demerits mean?

19 A It doesn't really mean anything. It's the way
20 the database tracks when you input something.

21 Q Okay. Does this -- how far back does this
22 database go?

1 A Oh, my. I don't know that precisely either.
2 At some point, we switched from one school management
3 system to another, and I don't know the precise date
4 when that occurred.

5 Q Does this document reflect every disciplinary
6 action that was taken between -- against a student
7 between January of 2015 and April 2018?

8 A I believe so. That were the parameters we
9 used to pull it.

10 MR. SCOTT: Let me -- can you pull up Exhibit
11 6A, please?

12 (EXHIBIT 6A MARKED FOR IDENTIFICATION)

13 VIDEOGRAPHER: Stand by.

14 BY MR. SCOTT:

15 Q Exhibit 6A is a document that I received the
16 other day from your attorneys. Can you tell me what
17 this is?

18 A It is a behavior report.

19 Q Dated April 13, 2018; is that correct?

20 A Yes.

21 Q Okay. And where did this document come from?

22 A It was pulled from the same database.

1 Q So what's the difference between this document
2 and the document that we looked at just a few minutes
3 ago, Exhibit 6 which had multiple entries?

4 A It only has one entry, so it looks different.

5 Q Is -- the substance is also different though,
6 isn't it?

7 A It's in a different format. This -- the
8 content is the same information.

9 Q Well, the description on Exhibit 6A of the
10 incident is different from the description on Exhibit 6.
11 It's more detailed, would you agree?

12 A I would have to compare them.

13 MR. SCOTT: Let's go back to Exhibit --

14 THE WITNESS: Yeah.

15 MR. SCOTT: Let's go back to Exhibit 6, please.

16 Last page.

17 BY MR. SCOTT:

18 Q At the bottom, you'll see a description of the
19 April 13, 2018 incident. Do you see that?

20 A I do.

21 Q Okay. And then I'd ask you to now go back and
22 look at the description on 6A. You would agree that it

1 has more detail, 6A, correct?

2 A It's a different -- it's a different entry.
3 It's not the same entry with different information.

4 Q Okay. When you say it's -- I don't understand
5 what you mean. Is it -- is Exhibit 6A and Exhibit 6,
6 does the -- did they -- were they printed from the same
7 database?

8 A They were, but the incidences although at
9 first look, appear to be the same incident are the same
10 incident for two different students.

11 Q Okay. So there were two students involved in
12 this incident; is that correct?

13 A Yes.

14 Q Okay. So why does the incident report on 6A
15 not appear on 6?

16 A I'm not sure. I could speculate that when it
17 was pulled, it was perceived to be the same thing twice.

18 Q But it's not, it's actually description with
19 respect to two different students, is that what you're
20 saying?

21 A Correct.

22 Q And both of these students were suspended; is

1 that right?

2 A Correct.

3 Q And that was because they were engaging in
4 inappropriate behavior, correct?

5 A Correct.

6 Q Which was what?

7 A Hugging in the stairwell.

8 Q And that's prohibited by the --

9 A Yes.

10 Q -- handbook?

11 A Yes.

12 Q It's prohibited by the handbook, correct?

13 A Correct.

14 Q Okay. Did you or anybody else at Bethel ever
15 speak to Matt Gallagher about whether Bethel's policies
16 violated the BOOST non-discrimination provisions?

17 A No.

18 Q Did you or anyone else at Bethel ever just
19 speak to Matt Gallagher about anything that you know of?

20 A No.

21 Q What about the other board members? Did you
22 or anybody else at Bethel ever speak to any other

1 members of the BOOST Advisory Board?

2 A No. Unless Monica Kearns falls in that
3 number.

4 Q She does not.

5 A Then, no.

6 Q Okay. Does Bethel Christian Academy have
7 guidance counselors?

8 A Have what? I'm sorry.

9 Q Guidance counselors.

10 A No. We do not.

11 Q What about social workers?

12 A No.

13 Q If a student were having problems -- behavior
14 problems, or coping problems, is there anybody at the
15 school that would be available to help the student?

16 A We would generally direct them to their
17 parents.

18 Q Okay. So there's nobody at the school who's
19 designated to provide counseling services to students;
20 is that right?

21 A That's correct.

22 MR. SCOTT: Can we call up Exhibit 20A, please?

1 (EXHIBIT 20A MARKED FOR IDENTIFICATION)

2 VIDEOGRAPHER: Stand by.

3 MR. SCOTT: Okay.

4 VIDEOGRAPHER: Actually, it's right here.

5 MR. SCOTT: Yes. Success.

6 BY MR. SCOTT:

7 Q Okay. Exhibit 20A is a letter to you dated
8 February 28, 2019, from Donna Gunning at the Maryland
9 State Board of Educa -- Department of Education. Have
10 you seen this before?

11 A Can you scroll down? It looks familiar.

12 Q Okay. In paragraph 2 on the first page,
13 Ms. Gunning is telling you that to the extent that
14 Christian Aca -- Bethel Christian Academy decides to
15 revise the language in its student handbook, that the
16 board has restored eligibility of some schools for the
17 BOOST program on that basis. Did you ever revi -- or
18 did Bethel ever revise its handbook language in an
19 attempt to regain eligibility for BOOST?

20 A No.

21 Q Why not?

22 A We were satisfied with our language,

1 expressing our beliefs.

2 Q Were there any discussions that you had with
3 anybody about whether you should consider revising the
4 handbook in order to get back into the program?

5 A Not that I recall.

6 Q So it was your decision alone to not revise
7 the handbook in an attempt to try to get back into the
8 program; is that right?

9 A There was no discussion regarding it.

10 Q And you made that decision, right?

11 A I suppose, since I'm responsible for the
12 handbook and I didn't revise it, yes.

13 Q Did you have any communications with anybody
14 at the state about what type of revisions might be
15 necessary in order to come into compliance?

16 A I did seek some information regarding what
17 this letter meant in regard to that.

18 Q And did you receive that information?

19 A I did.

20 Q Okay. And what did you do with it?

21 A Put it in the file.

22 Q Did you read it first?

1 A I believe I may have scanned it.

2 Q And this is information that you had requested
3 from the state?

4 A Yes.

5 Q And what was your conclusion upon scanning it,
6 if any?

7 A I didn't know that I came up with a
8 conclusion. It was just information gathering.

9 Q And what was the purpose of the information
10 gathering?

11 A Seeking to understand what was happening with
12 the requirements.

13 Q And this was in 2019?

14 A Apparently so.

15 Q And this -- so this would have been after the
16 board had ruled that Bethel was no longer eligible to
17 participate in BOOST, right?

18 A Correct.

19 Q And so you were --

20 MR. SCOTT: Well, let me -- let's call up
21 Exhibit 19, please.

22 Q Okay. This is an e-mail chain between you and

1 Donna Gunning at the Maryland State Board of Education,
2 and she's sending you information about revisions that
3 other schools have made to their handbooks in an attempt
4 to get back into BOOST, right?

5 (EXHIBIT 19 MARKED FOR IDENTIFICATION)

6 A Correct.

7 Q And you -- she sent that to you, and you
8 thanked her for that, correct?

9 A Sure. Yes.

10 Q And you said you would review it right away,
11 right?

12 A Yeah.

13 Q Okay. But you decided not to make any
14 revisions or -- to the handbook, correct?

15 A Correct.

16 Q Even though you knew that other schools had
17 revised their handbooks and had been re-admitted to the
18 program, correct?

19 A Correct.

20 Q And just to confirm, you don't have any
21 specific recollections of any verbal communications you
22 had with Donna Gunning; is that right?

1 A I don't.

2 Q There came a point when the State revi -- the
3 legislature, the Maryland legislature, revised the BOOST
4 law to change the language concerning discrimination in
5 2019. Are you -- is -- was Bethel aware of that?

6 A I was aware at some point. I can't speak to
7 exactly when I became aware.

8 Q And what was Bethel's understanding of what
9 the change was?

10 A That they had added gender identity to the
11 statement.

12 Q Anything else?

13 A Not particularly.

14 Q And then after that, in 2020, Bethel decided
15 to apply to this -- to the State for the Aid to
16 Non-Public Schools program, correct?

17 A Correct.

18 Q And that was -- and you -- and Bethel did that
19 even though it knew that the law now prohibited not only
20 discrimination based on sexual orientation but also
21 gender identity, correct?

22 A Yes.

1 Q Why did Bethel reapply in 2020?

2 A Because we had been told that we were not
3 qualified for the previous two years, and so that time
4 was up, and so we went ahead and reapplied.

5 Q And it was ultimately determined that your
6 application was not timely, correct?

7 A Was not what?

8 Q Timely. It was late?

9 A Yes. They had stated that because we were not
10 being notified anymore regarding when the deadlines were
11 or any of that, and so I was not completely sure when
12 the deadline was.

13 Q Prior to submitting this new application in
14 2020, did Bethel make any revisions to its handbook?

15 A We make revisions every year, so yes.

16 MR. SCOTT: Let's take a look at Exhibit 21,
17 please.

18 (EXHIBIT 21 MARKED FOR IDENTIFICATION)

19 VIDEOGRAPHER: Stand by.

20 MR. SCOTT: All right. Go to the second page,
21 please.

22 BY MR. SCOTT:

1 Q So this is a letter -- I'm on page 2 of
2 Exhibit 21 to your deposition, Ms. Dant. This is a
3 letter dated April 24, 2020 to you from Donna Gunning
4 advising that Bethel's application had been denied.
5 Attached to it, or as Appendix A, or a copy of the law,
6 and then Appendix B, Bethel's handbook for 2019, 2020.

7 MR. SCOTT: If we could go to page -- looks
8 like it's about page 10. Wait. Up -- up -- up --
9 up. Yeah. Right here.

10 BY MR. SCOTT:

11 Q So Ms. Gunning -- or excuse me, Ms. Dant, this
12 is a copy of Bethel's handbook from 2019, 2020, right?

13 A Correct.

14 MR. SCOTT: Okay. And let's go to page 7 of
15 that. No. Of the handbook. Keep going -- no, this
16 handbook. Just keep going. Page 7. Yeah. Keep
17 going. Four more pages.

18 VIDEOGRAPHER: That's it. That's the whole
19 document.

20 MR. SCOTT: That's it?

21 VIDEOGRAPHER: Yeah.

22 MR. SCOTT: Okay. We'll have to fix that. Hold

1 on. Why don't we take a two-minute break while I
2 call my office? I'll have them resend it.

3 COURT REPORTER: We are off the record.

4 (OFF THE RECORD)

5 COURT REPORTER: We're back on the record.

6 BY MR. SCOTT:

7 Q Okay. Ms. Dant, we're getting a corrected
8 copy of the exhibit which will be designated as Exhibit
9 21A, in which hopefully will include all the pages of
10 the 2019-2020 handbook.

11 (EXHIBIT 21A MARKED FOR IDENTIFICATION)

12 VIDEOGRAPHER: Sharing now.

13 Q So if we could go down to page 7 of the
14 handbook. Keep going. Keep going. There we go, 7 up.
15 Up one page. There we go. Okay. Ms. Dant, this is the
16 -- this is page 7 of the 2019-2020 Bethel handbook. And
17 I will direct your attention to the text that appears
18 under Statement of Nondiscrimination. Do you see that?

19 A Yes.

20 Q Okay. So I notice that there is no statement
21 here, unlike the earlier handbook that we looked at,
22 Exhibit 2 with respect to Bethel's view of marriage, in

1 between a cove -- being a covenant between one man and
2 one woman, correct?

3 A Correct.

4 Q Okay. Why was that language removed?

5 A It was relocated to another place, in the
6 handbook.

7 Q Why?

8 A We often relocate things and move them around
9 for greater clarity. It was --

10 Q I understand --

11 A -- never part of -- it was never part of the
12 admissions policy to begin with.

13 Q Okay. So you're saying it shouldn't have --
14 it shouldn't have been there in the first place?

15 A I'm saying, as I stated to you earlier, that
16 paragraph was not perceived by me to be part of the
17 admissions policy with a piece of conduct information.

18 Q Okay. And where was it moved to?

19 A The discipline conduct area.

20 Q Okay. Can you tell me -- can you show me
21 where that is?

22 A I was not looking at it to know what page is

1 stack in that discipline area where the --

2 Q It was --

3 A -- list of behavioral offenses maybe.

4 Q Page 35 of the handbook, perhaps. Is that
5 what you mean, that section?

6 A Yes. This area. Yeah.

7 Q And where is the language about the marriage?

8 A The marriage may not be there. It may have
9 just been -- it may have been separated out and put in
10 with the statement of faith. The expectation of student
11 conduct is below.

12 Q Right. So where is the statement of faith?

13 A At the front of the handbook.

14 Q Page 8. Is this what you mean? Page 8?

15 A Yes. Yes.

16 Q Okay. And where does the language about the
17 marriage appear in this section?

18 A It may not be exactly the same -- the same
19 wording. The statement was not just taken as a whole
20 and stuck somewhere else.

21 Q Okay.

22 A You'll notice if you look at number 5 in the

1 statement of faith.

2 Q Okay.

3 A That's a script of foundation for that.

4 Q Okay. And it also has language about
5 condemning a homosexual lifestyle, correct?

6 MR. TUCKER: Objection. Form.

7 A It states the scripture reference.

8 Q About condemning a homosexual lifestyle,
9 correct?

10 MR. TUCKER: Objection. Form.

11 A The statement in the handbook reads that way.

12 Q Okay. So let's go back to 35 -- page 35,
13 which is the conduct policy. And at the bottom, you
14 pointed out that there were some new language here. It
15 looks like -- it says that, "Any conduct that is in
16 violation of the school statement of faith will be
17 considered grounds for disciplinary action, including
18 the expectation that BCA students identify with, dress
19 in accordance with, and use facilities associated with
20 their biological gender," right?

21 A Yes.

22 Q Okay. And why was that added to the

1 disciplinary section of the handbook?

2 A Because it was a conduct statement, it was
3 simply moved from one place to the other.

4 MR. SCOTT: Let's look at Exhibit 22, please.

5 (EXHIBIT 22 MARKED FOR IDENTIFICATION)

6 VIDEOGRAPHER: Stand by.

7 BY MR. SCOTT:

8 Q Ms. Dant, Exhibit 22 is a document I received
9 from your attorney. It is a two-page document entitled
10 "Aid to Non-Public Schools Program Fiscal Year 2019 to
11 2020, Program Assurances." And then about appears to be
12 your signature on the second page; is that right?

13 A That's correct.

14 Q Okay. So this would have been something that
15 you signed and submitted in support of your -- of the
16 school's application in 20 -- for the 2019-2020 program,
17 correct?

18 A I always get confused with fiscal years and
19 school years.

20 Q I think this --

21 A It's for year 2020?

22 Q Yeah. And then in parenthesis it says "SY

1 2019-2020." Do you see that?

2 A Yes.

3 Q So I think that means school year. So --

4 A I think it -- I think it does.

5 Q Yes. So this was something that you signed
6 and submitted in support of Bethel's application for the
7 program for the 2019-2020 school year, correct?

8 A Yes.

9 Q All right. And item number 4 on the first
10 page says "the school does not discriminate in student
11 admissions, retention, or expulsion or otherwise
12 discriminate against any student on the basis of race,
13 color, national origin, sexual orientation, or gender
14 identity or expression," right?

15 A Right. It does say that.

16 Q Okay. And you signed it certifying that the
17 school complied with that, correct?

18 A Correct.

19 Q Okay. But that's not true, is it?

20 MR. TUCKER: Objection to form.

21 A What's not true?

22 Q That the school does not discriminate based on

1 gender identity or expression.

2 A That absolutely is true that we do not
3 discriminate.

4 Q Okay. But your handbook says that students
5 have to dress in accordance with and identify with their
6 biological gender. We just looked at --

7 A That one will apply to all students.

8 Q And if they don't, they can face discipline
9 including expulsion, correct?

10 A Any student that does not comply with our
11 behavioral expectations may be subject to school
12 discipline.

13 Q Well, let me ask you this. If a student
14 applied to Bethel for admission and met all the
15 requirements and was qualified, but said, "I don't
16 identify with my biological gender." Bethel wouldn't
17 admit that student, would they?

18 MR. TUCKER: Objection. Form.

19 A We would not have asked that question.

20 Q What if the student --

21 A That would not -- that does not matter to us,
22 as long as they met our academic requirements.

1 Q So even if they tell you, "I'm not -- I don't
2 identify with my biological gender," you would admit
3 that student, if they met all other qualifications. Is
4 that your testimony?

5 A It's not in part of our enrollment policy to
6 ask. If they meet our requirements, we would accept
7 them.

8 Q Even if they voluntarily tell you that they
9 don't identify with their biological gender?

10 A It would not matter to us. If they meet our
11 requirements they are welcome to come.

12 Q What if they -- what if the students say that,
13 "when I get there, I'm not going to dress in accordance
14 with my biological gender"?

15 A We've never had that situation.

16 Q What if you did?

17 A I will question why they would want to come to
18 our school if they've already determined they're not
19 going to.

20 Q Would you admit them?

21 MR. TUCKER: Objection. Form. Asked and
22 answered. Speculation.

1 Q You can answer.

2 A When we're talking to students, we are looking
3 to make sure that there is clear understanding of what
4 we are requiring in regards to our students.
5 Behaviorally and academically. That would be made clear
6 to the student.

7 Q Yeah. I appreciate what you're saying,
8 Ms. Dant, but that's not what I asked you. And I mean,
9 this case is about a law that says, "If you're going to
10 participate in this program, you can't discriminate
11 against people based on gender, identity, or
12 expression." And I'm asking you, as the lawyer who is
13 defending a lawsuit brought by Bethel, whether or not
14 Bethel would admit a student who said, "I'm otherwise
15 qualified, I meet all your qualifications. But I do not
16 plan to dress in accordance with my biological gender
17 when I attend your school." And my question to you, and
18 I think the Court would want to know the answer to this
19 is, is would you admit that student or not?

20 MR. TUCKER: Objection. Form. Asked and
21 answered. Mischaracterization. Speculation.

22 A And I'm saying we would have a conversation.

1 We would make our expectations clear and we would accept
2 a student who is qualified and desires to come to our
3 school. They would be welcome.

4 Q Even if they tell you they're not going to je
5 -- dress in accordance with the biological gender?

6 MR. TUCKER: Objection. Form. Same -- we've
7 asked the same question about ten different times,
8 Rob. She's already answered the question.

9 MR. SCOTT: I disagree, Counsel, and I think
10 the court would disagree as well. All right. We'll
11 move on to another subject. Let's talk about the
12 complaint, which is Exhibit 7.

13 (EXHIBIT 7 MARKED FOR IDENTIFICATION)

14 VIDEOGRAPHER: Stand by.

15 BY MR. SCOTT:

16 Q All right. Exhibit 7, Ms. Dant is a copy of
17 the complaint that was filed in this case. And I want
18 to direct your attention to paragraph 189, which is on
19 page 23. Did you see that? You can blow it up a bit so
20 she can read it.

21 A Blow it up a tiny bit, please. Thank you.

22 Q All right. It says -- it alleges in paragraph

1 189 that "Defendants' made statements disparaging the --
2 that Bethel's religious beliefs regarding marriage and
3 biological sex." My question to you is, which of the
4 defendants made those statements?

5 A I did not personally hear those statements
6 made.

7 Q Okay. Well, I'm asking you as the designee of
8 Bethel Chris -- the plaintiff in this case. So I'm
9 asking you what information Bethel has concerning these
10 alleged statements that the complaint says "The
11 Defendants' made disparaging Bethel's religious
12 beliefs."

13 A I believe that you have provided to my
14 attorney statements made by the defendants upon which
15 these things are -- these allegation of disparaging
16 statements is based.

17 Q And what are those statements and who made
18 them?

19 A I believe they may have been made by
20 Mr. Gallagher.

21 Q Okay. What did he say --

22 A I don't know -- I don't know precisely what

1 the statements may have been.

2 Q Okay. So you believe Mr. Gallagher made
3 statements, but you don't know what they were; is that
4 right?

5 A I believe that your def -- your client gave us
6 documentation indicating these things.

7 Q Okay. Well, I'm asking you what doc -- what
8 statements were made and I'm asking you what Bethel
9 knows about that, not what documents we gave you?

10 MR. TUCKER: Objection. Form.

11 A As I said, I did not hear the statements made.
12 The documents that were provided to us by the Defendants
13 indicate that Mr. Gallagher had statements that he made
14 regarding Bethel and our beliefs. I don't know the
15 precise statement.

16 Q So you don't know what he said; is that right?

17 MR. TUCKER: Objection. Form.

18 A I don't -- I don't have a quote of what he
19 exactly said, no.

20 Q Okay. Did any of the other defendants make
21 any statements disparaging Bethel's religious --

22 A I'm not sure.

1 MR. TUCKER: Objection. Again, calls for legal
2 conclusion.

3 MR. SCOTT: It's an allegation in the
4 complaint. I'm asking which defendants --

5 A Documentation -- supported by documentation
6 provided by the defendant.

7 BY MR. SCOTT:

8 Q What documentation are you referring to?

9 A I don't know the precise name of which
10 document.

11 Q Okay. Well, my question --

12 A I believe there were a number of documents
13 provided to us, as we provided a number of documents.

14 Q My question is what -- other than -- you
15 mentioned, Mr. Gallagher. My question is, what other
16 defendants, if any, did -- does Bethel claim made
17 disparaging statements about Bethel's religious beliefs?

18 A I do not know.

19 Q Okay. Did any state employee that you were
20 aware of ever make any statements disparaging Bethel's
21 religious beliefs?

22 A Not to me.

1 Q To Bethel?

2 A Not to Bethel.

3 Q To anyone that Bethel was aware of?

4 A Not that I'm aware of.

5 Q And just speak -- just so the record is clear,
6 I'm asking you as the designee of Bethel.

7 A I understand.

8 Q Okay. Does Bethel believe that it meets all
9 of the eligibility requirements for the BOOST program?

10 A Yes.

11 Q Let me ask you to look at paragraph 158 of the
12 complaint. It says, "Aside from the gender identity
13 nondiscrimination provision, Bethel meets the
14 eligibility requirements for reinstatement in BOOST." Do
15 you see that?

16 A Yes.

17 Q Okay. Why does it say "aside from the gender
18 identity nondiscrimination provision"?

19 MR. TUCKER: Objection. Form.

20 Q Doesn't that mean that Bethel doesn't meet --
21 doesn't meet the gender identity nondiscrimination
22 requirement?

1 A No idea --

2 MR. TUCKER: Objection. Form.

3 A I think it means that's what being determined
4 at this time, that's what's in contention.

5 Q So its Bethel's position that it meets the
6 gender identity nondiscrimination provision?

7 A Yes.

8 MR. SCOTT: Okay. Let's go to Exhibit 23.

9 (EXHIBIT 23 MARKED FOR IDENTIFICATION)

10 VIDEOGRAPHER: Stand by.

11 BY MR. SCOTT:

12 Q Ms. Dant, I've had it marked as Exhibit 23
13 copy of a declaration that you signed in this case back
14 in October of 2019. Did you sign this document? Can
15 you go to the last page, please?

16 A Yes, sir.

17 Q Okay. Let me direct your attention to page 3,
18 paragraph 15. It says here, "Based on its religious
19 beliefs, Bethel also requires all students to identify
20 with their biological sex, adhere to the dress code of
21 their biological sex, and use the private facilities of
22 their biological sex." Do you see that?

1 A I do.

2 Q Okay. And that was true when you signed this
3 declaration back in 2019, right?

4 A That's true.

5 Q And it's true today, right?

6 A Yes.

7 Q Other than the decision of the BOOST Advisory
8 Board to disqualify -- well -- strike that. Let me ask
9 you this. What evidence does Bethel have to support its
10 allegation that the defendants in this case are hostile
11 towards the beliefs -- the religious beliefs of Bethel?

12 MR. TUCKER: Objection to form.

13 A The fact that that's the only reason that they
14 stated for removing us from the program.

15 Q Okay. Anything else? Is there any other --
16 are there any other statements that anybody made that
17 support Bethel's assertion that the board was hostile
18 towards Bethel's religious beliefs?

19 A Could you restate that question, please?

20 Q Yeah. The complaint alleges that Maryland
21 officials, including the defendants, allowed their
22 hostility towards Bethel's religious beliefs to override

1 the program's own requirements. And my question to you
2 is, what's your basis for -- what's Bethel's basis for
3 that assertion?

4 A Okay.

5 MR. TUCKER: Objection. Form.

6 A And as I stated, the fact that they removed us
7 from the program because of the language in our handbook
8 is the basis for that.

9 Q Is there anything else, any other statements
10 or evidence or documents or anything else that supports
11 that assertion?

12 MR. TUCKER: Objection. Form. Asked and
13 answered.

14 A Other than what you already mentioned
15 regarding Mr. Gallagher's statements about our school,
16 no.

17 Q Okay. And again, you don't remember -- you
18 don't know what exactly -- you don't know what Mr.
19 Gallagher said?

20 A I was not there.

21 Q Okay. Does Bethel have any evidence that any
22 members of the BOOST board had any ill will or animus

1 toward Bethel based on Bethel's religious beliefs?

2 MR. TUCKER: Objection. Form.

3 A Other than removing us from the program
4 because of our beliefs? No.

5 Q Does evidence -- does Bethel have any evidence
6 that anybody with the Maryland State Government has any
7 ill will or animus toward Bethel based on Bethel's
8 religious beliefs?

9 MR. TUCKER: Objection to form.

10 A Other than that decision that they made
11 against us, no.

12 Q And by decision they made against us, you mean
13 to disqualify Bethel from the BOOST program, correct?

14 A Correct.

15 Q Does Bethel believe that the BOOST board
16 treated Bethel differently than other schools that had
17 their handbooks reviewed for compliance with the
18 non-discrimination provision in the BOOST board?

19 A Yes.

20 Q Okay. And what's the basis for that belief?

21 A The fact that it was communicated that other
22 schools had been accepted into the program who have

1 similar beliefs -- similar beliefs that we have, and yet
2 we were not accepted into the program.

3 Q Okay. And what other schools are you
4 referring to?

5 A I can't remember a long list of them. I
6 believe that they were also listed somewhere in all of
7 this documentation. I can't remember which ones were in
8 or out. Broadfording Academy. I don't remember if
9 they're in or out, but there were a number of schools
10 mentioned that were in and we were out.

11 Q Okay. But you can't identify any of those
12 schools right now?

13 A I would have to see a list of them.

14 Q Do you believe such a list exists?

15 A I do.

16 Q Okay. And have you seen it?

17 A Yes.

18 Q Okay. And --

19 A It's in -- it's in this massive amount of
20 documentation.

21 Q And what does it say?

22 A It basically says that Bethel Christian

1 Academy was deemed to be ineligible, and then it lists
2 other schools that were deemed to be eligible.

3 Q Okay. But you don't know what those other
4 schools are?

5 A Not off the top of my head.

6 Q Do you know what their handbooks say or said
7 at the time that they were considered?

8 A No. Not precisely. In fact that I probably
9 had not read them.

10 Q Okay. So you don't know what other schools
11 were allowed to continue to participate in what other
12 students -- what other schools were declared ineligible
13 and you don't know what their handbooks said, correct?

14 MR. TUCKER: Objection to form --

15 A I cannot give you a list of them. No.

16 Q And you don't know what their handbooks say,
17 correct?

18 A I do not. I believe it is in the
19 documentation.

20 Q So then why do you believe Bethel was treated
21 differently than these other schools?

22 A I don't know.

1 Q Does Bethel have any evidence that the BOOST
2 board applied different standards to Bethel and applied
3 to other religious schools when the board was deciding
4 whether schools policies were in compliance with the
5 BOOST's non-laws, non-discrimination provision?

6 MR. TUCKER: Objection. Form. Compound.
7 Vague. Calls for legal conclusion.

8 A I don't know the - I, personally, doesn't have
9 any evidence other than the fact that some schools were
10 in and my school was out.

11 Q Anything else?

12 MR. TUCKER: Same objection.

13 A No.

14 MR. SCOTT: All right. Why don't we just take
15 a short break. I think I'm almost finished. I just
16 want to go over my notes here and clean up any last
17 minute things. So lets take a five-minute break,
18 please.

19 MR. TUCKER: Okay.

20 COURT REPORTER: We are off the record.

21 (OFF THE RECORD)

22 COURT REPORTER: We are back on the record.

1 BY MR. SCOTT:

2 Q Okay. Thanks. So Ms. Dant, let's go back to
3 your declaration, which was Exhibit 23. I want to ask
4 you about paragraph 41. It says here that "An
5 additional 20 prospective students inquired about
6 attending Bethel and the financial aid available, but
7 were unable to join Bethel for the 2019-2020 school year
8 due to lack of student financial aid, including BOOST
9 funding." Do you see that?

10 A I do.

11 Q Okay. Do you know who -- do you know who
12 those students are, those prospective students?

13 A I could not list their names to you. We did
14 look -- we did look up how many inquiry had mentioned
15 financial aid as a concern.

16 Q And where did you look for that information?

17 A It's in the part of the online application
18 includes an online inquiry.

19 Q Okay. So somebody can go online and make an
20 inquiry, is that what you're saying?

21 A Yes.

22 Q And so you looked for those that checked --

1 that asked for information about financial aid; is that
2 right?

3 A Yes.

4 Q And so if a prospective student made an
5 inquiry, and included a request for information about
6 financial aid, you included them in this number of 20
7 prospective students?

8 A Yes.

9 Q Okay. Did you ever talk to any of these
10 prospective students about what type of financial aid
11 they were interested in?

12 A Yes. Certainly.

13 Q Okay. And did any of them mention BOOST?

14 A Yes.

15 Q Okay. How many?

16 A At least two.

17 Q Two of the 20?

18 A At least.

19 Q Okay. Do you know the -- do you remember
20 their names?

21 A They are in some of the documentation we
22 provided to you. I believe (confidential) and

1 (confidential).

2 Q Okay. Any other?

3 MR. TUCKER: Robert, I know we've got to -- I
4 know we've got to enter into the protective order,
5 which will -- we can talk about later but just for
6 purposes of clarity, we probably want to mark those
7 two names confidential to protect their disclosure.

8 MR. SCOTT: I don't have any problem with that.
9 I do think we should get the order filed.

10 MR. TUCKER: Yeah.

11 BY MR. SCOTT:

12 Q Ms. Dant, you so you said at least two. Can
13 you recall any other names?

14 A No. I cannot.

15 Q And then the next paragraph says, this is 42,
16 "At least one other Bethel student will be forced to
17 leave our school next year unless Bethel is it
18 readmitted to BOOST." Do you see that?

19 A Yes.

20 Q Okay. Do you know who that student is?

21 A I do.

22 Q Who is it?

1 A I believe I do.

2 Q Who is it?

3 A That -- that name has not been provided to
4 you. I'm not sure how to handle that.

5 Q Okay. Well, I think the information is
6 relevant and I'm asking for it now.

7 MR. TUCKER: I'll just say is -- Robert, if you
8 don't mind, is this a current student?

9 THE WITNESS: She's is no longer a current
10 student.

11 MR. TUCKER: She's no longer at Bethel?

12 THE WITNESS: Right.

13 MR. TUCKER: Robert, as long as we can agree to
14 protect subject again to a confidentiality order,
15 which I'm sure we're going to be agreeing to, I'm
16 okay with her answering that question.

17 MR. SCOTT: Okay. Thank you.

18 THE WITNESS: Okay. (confidential).

19 BY MR. SCOTT:

20 Q Can you spell that?

21 A (Confidential).

22 Q Okay. Okay. And you're saying she's no

1 longer a student at Bethel?

2 A Correct.

3 Q And I take it from this statement in the
4 affidavit that she told you, or her parents told you,
5 that she wouldn't be able to -- the reason she couldn't
6 stay was because BOOST -- because Bethel was no longer
7 participating in brute -- BOOST?

8 A Correct.

9 Q Okay. Did her parents tell you that?

10 A Yes.

11 Q Okay. And what were her parents -- what are
12 her parents' names?

13 A Diana Turner. She only has a mom.

14 Q Okay. Thanks. So I have a couple of
15 questions now that I'm going to ask you. Not in your
16 capacity as a designee. So I know, we had agreed that
17 we are going to do this both on the same day, so I just
18 want to make clear that what I'm asking you about now is
19 not your capacity as designee.

20 MR. SCOTT: Exhibit 26. Can we put that up?

21 (EXHIBIT 26 MARKED FOR IDENTIFICATION)

22 VIDEOGRAPHER: Stand by.

1 MR. TUCKER: Just for clarity. I think some
2 were probably asked earlier in her individual
3 capacity, but it may not make a difference. We can
4 talk about that later if we need to.

5 BY MR. SCOTT:

6 Q Exhibit 26. Yes. Okay. So this is a
7 document that was produced by your attorneys in this
8 case and it appears to be a letter that you wrote to the
9 Washington Post; is that right?

10 A Yes.

11 Q Okay. And you wrote this and submitted for
12 publication in the Post?

13 A Yes.

14 MR. SCOTT: Okay. Exhibit 27.

15 (EXHIBIT 27 MARKED FOR IDENTIFICATION)

16 VIDEOGRAPHER: Stand by.

17 BY MR. SCOTT:

18 Q This is another document that was produced in
19 discovery in this case, although it doesn't look like I
20 got this one from your attorneys. This appears to be a
21 letter that you wrote to the Baltimore Sun; is that
22 right?

1 A Can you scroll up?

2 Q If you go to the first page.

3 A Yes. I believe so.

4 Q It says Baltimore Sun, when you look at the
5 web address. It says Baltimore Sun there.

6 A Yes. I believe I wrote a letter to the
7 editor.

8 MR. SCOTT: Okay. Exhibit 28.

9 (EXHIBIT 28 MARKED FOR IDENTIFICATION)

10 VIDEOGRAPHER: Stand by.

11 BY MR. SCOTT:

12 Q This is an e-mail that you sent to somebody
13 whose name is blacked out. Actually, I'm sorry,
14 somebody sent this e-mail to you; is that right?

15 A Yes. It appears that it was sent to me.

16 Q Okay. And then below the -- that, there is an
17 e-mail that you sent looks like to a group of people,
18 BCA Families, about the lawsuit, right?

19 A Yes.

20 Q Okay. And then the last page of this is, it
21 looks like a press release from the Alliance Defending
22 Freedom?

1 A Yes.

2 Q To the family's students at the school.

3 MR. TUCKER: Rob -- Rob we just -- Rob, I'm
4 sorry, we lost you.

5 MR. SCOTT: Okay. Like how far back?

6 MR. TUCKER: Find out about -- we pro -- I
7 would just restart this last question. We didn't
8 pick it up.

9 BY MR. SCOTT:

10 Q So my question is, is that the last page of
11 this -- well, the question was this female that she sent
12 to the BCA Families forwarded the press release from the
13 Alliance Defending Freedom, which is the last page of
14 this exhibit; is that correct?

15 A Yes.

16 Q Okay. And we -- this asserts -- this press
17 release asserts that Bethel fully complied with the
18 voucher programs requirement that Maryland targeted it
19 because of its religious views. And I asked you earlier
20 about what evidence Bethel had to support its assertion
21 that Maryland had targeted it, or was hostile towards it
22 based on its religious views. And you testified that

1 you were relying only on the decision that was made to
2 disqualify Bethel from the program, correct?

3 MR. TUCKER: Objection to form.

4 Mischaracterizes the evidence.

5 A Yes. I testified that I was relying on the
6 fact that we were excluded from the program because of
7 our handbook language stating our religious beliefs.

8 Q Right. Is there any other evidence that you
9 are aware of that Maryland state officials targeted
10 Bethel because of its religious views other than what
11 you just said?

12 A And the fact that other schools were accepted
13 into the program --

14 Q Right. But you don't know --

15 A -- having changed -- having changed their
16 language.

17 Q Right. But you don't know what those schools
18 are or what their handbooks said, right?

19 A It's in the documentation, but no, I don't
20 know them.

21 MR. SCOTT: Okay. All right. I don't have any
22 other questions at this time. Thank you for your

1 time today, Ms. Dant and --

2 THE WITNESS: You're welcome.

3 MR. SCOTT: -- have a good day.

4 MR. TUCKER: I --

5 MR. SCOTT: Go ahead.

6 MR. TUCKER: I just had -- I just had a few
7 questions, Rob.

8 MR. SCOTT: Okay.

9 MR. TUCKER: For the witness. And Adam, I
10 don't know if you can bring it up, but I think it
11 was Exhibit 5. I'm trying to look at my notes here.

12 VIDEOGRAPHER: Stand by.

13 MR. TUCKER: Is it possible to bring up Exhibit
14 5?

15 VIDEOGRAPHER: Yeah. Give me one second.

16 MR. TUCKER: Yes. That's it.

17 CROSS EXAMINATION

18 BY MR. TUCKER:

19 Q Ms. Dant, looking at Exhibit 5, do you see on
20 the left side there where it says "status"?

21 A Yes.

22 Q And then it says "rejected" in the column, I

1 guess right next to it?

2 A Yes.

3 Q What does rejected mean?

4 A Rejected could mean that a student did not --
5 their application did not meet our requirements or that
6 the application was incomplete.

7 Q Okay. That's all I have for that particular
8 exhibit. I do have a few more questions. Ms. Dant, you
9 said that all students who pass the entrance exam are
10 welcome at Bethel; is that correct?

11 A Yes.

12 Q Mr. Scott asked you about whether Bethel would
13 admit homosexual children. Do you remember that
14 discussion?

15 A I do.

16 Q And I believe you emphasize that you admit any
17 and all qualified students; is that correct?

18 A That is correct.

19 Q Is that without respect to sexual attractions,
20 orientation, or gender identity?

21 A Without respect to those things, yes.

22 Q Does Bethel ask about sexual orientation

1 during its admissions process?

2 A No. We do not.

3 Q Does Bethel ask about student generated --
4 gender identity during its admissions process?

5 A No. We do not.

6 Q Do students' sexual orientation or gender
7 identity relevant to Bethel's admissions process?

8 A No. It is not relevant.

9 Q Has Bethel ever asked about a student's sexual
10 orientation or gender identity in the admissions process
11 or at any point at all?

12 A No.

13 MR. TUCKER: That's all I have.

14 THE WITNESS: Okay.

15 MR. TUCKER: I don't have anything.

16 MR. SCOTT: I don't have anything further, so I
17 believe we're finished.

18 COURT REPORTER: We are off the record.

19 (DEPOSITION CONCLUDED AT 2:44 P.M.)

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CERTIFICATE OF REPORTER

I do hereby certify that the witness in the foregoing transcript was taken on the date, and at the time and place set out on the Stipulation page hereof, by me after first being duly sworn to testify the truth, the whole truth, and nothing but the truth; and that the said matter was recorded by me and then reduced to typewritten form under my direction, and constitutes a true record of the transcript as taken, all to the best of my skill and ability. I certify that I am not a relative or employee of either counsel and that I am in no way interested financially, directly or indirectly, in this action.

Brooke Andrew

BROOKE ANDREW

COURT REPORTER/NOTARY

MY COMMISSION EXPIRES: 11/27/2021

SUBMITTED ON: 04/19/2021

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EXHIBIT 2



Planet Depos[®]
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Transcript of Patricia Wecker

Date: April 26, 2021

Case: Bethel Ministries, Inc. -v- Salmon, et al.

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

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BETHEL MINISTRIES, INC., :
Plaintiff, :
v. : CASE NO.:
DR. KAREN B. SALMON, ET AL., : 1:19CV01853SAG
Defendants. :
-----x

DEPOSITION OF PATRICIA WECKER
Conducted Virtually
Monday, April 26, 2021
2:11 PM EST

Job No.: 372695
Pages: 1 - 125
Recorded By: Shaylah Kiser

1 Deposition of Patricia Wecker, conducted
2 virtually.

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15 Pursuant to Notice, before Shaylah Kiser,
16 Notary Public in and for the Commonwealth of
17 Virginia.

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A P P E A R A N C E S

ON BEHALF OF THE PLAINTIFF, BETHEL
MINISTRIES, INC.:

RYAN J. TUCKER, ESQUIRE
PAUL D. SCHMITT, ESQUIRE
ALLIANCE DEFENDING FREEDOM
17 West Jefferson Street
Rockville, MD 20850
480.444.0020

ON BEHALF OF THE DEFENDANTS, DR. KAREN B.
SALMON, ET AL.:

JUSTIN FINE, ESQUIRE
ASSISTANT ATTORNEYS GENERAL
200 Saint Paul Place, 20th Floor
Baltimore, MD 21202
410.576.7055

ALSO PRESENT:

RYLEY MAYER, REMOTE TECHNICIAN

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P R E V I O U S L Y M A R K E D

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P R O C E E D I N G S

Whereupon,

PATRICIA WECKER,

being first duly sworn or affirmed to testify to
the truth, the whole truth, and nothing but the
truth, was examined and testified as follows:

THE REPORTER: Okay. The time is 2:11
p.m. And you may proceed. Thank you.

MR. FINE: Thank you, Ms. Kiser.

EXAMINATION BY COUNSEL FOR THE DEFENDANTS

BY MR. FINE:

Q And good afternoon, Ms. Wecker. Could
you please say and spell your full name, please?

A Patricia Wecker, P-A-T-R-I-C-I-A,
W-E-C-K-E-R.

Q And where do you currently reside, Ms.
Wecker?

A Elkridge, Maryland. Do you need the
full address?

Q Sure. That -- it might be good for
later purposes.

A 5730 Furnace, F-U-R-N-A-C-E, Avenue,

1 Elkridge, Maryland 21075.

2 Q Is that near -- near the park?

3 A Actually, we live in the park.

4 Q In the park?

5 A We are a --

6 Q Well, the --

7 A -- resident curatorship. Yeah.

8 Q Say that again?

9 A We're -- we have a resident curatorship.

10 So our house was built in the 1740s.

11 Q Wow. That's -- we're -- I'm talking
12 about Patapsco Valley State Park; right? Wow.

13 A Yes. Uh-huh.

14 Q Okay.

15 A So --

16 Q The --

17 A -- well, it's --

18 Q -- the --

19 A -- not --

20 Q -- Furnace gave it away.

21 A -- in the park -- park land -- it's on
22 park land. We're -- we're right across the street

1 from the Elkridge Furnace Inn, if you've ever been
2 there.

3 Q Of course.

4 A That's our first restaurant. Yeah.

5 Q Well, the -- the Furnace gave it away
6 and Elkridge as well, so -- all right. Well,
7 thank you for sharing that.

8 We're here today because of the lawsuit
9 filed by Bethel Ministries Incorporated against
10 the Defendants in this case including the BOOST
11 board, several BOOST board members, and Dr. Salmon
12 in her official capacity. And the reason you're
13 here today is that -- it is my understanding from
14 Ms. Dant that you were functioning, quote, her
15 words, as the assistant principal of Bethel
16 Christian Academy in 2017; is that right?

17 A Yes. I'm trying to think. I'm not
18 quite sure when I left. We opened the restaurant
19 in May of '18. So 2016, 2017 school year, yes.

20 Q Yes, you were the assistant principal of
21 Bethel Christian --

22 A Yes.

1 Q -- Academy in 2017?

2 A Yes.

3 Q Okay. And what years did you serve in
4 that role?

5 A Just the one year prior -- I -- I was at
6 Bethel for twenty-three years.

7 Q Okay. But you were in that role for one
8 year. And then twenty-three years previous to
9 that, you were working at the school in some
10 capacity or another?

11 A I was the director of enrollment --

12 Q Director --

13 A -- as well as the business manager.

14 Uh-huh.

15 Q Okay. And that's -- those are some of
16 the reasons why we -- I wanted to talk to you
17 today.

18 Have you ever been deposed before, Ms.
19 Wecker? Okay.

20 A Uh-huh. No.

21 Q So I'm going to explain the process for
22 you. A deposition is -- is like an interview,

1 except in a lot of ways it's different. One way
2 it's different is that our conversation is being
3 recorded. So everything we say is being written
4 down by Ms. Kiser. Everything you say is under
5 oath, so it is the truth. And -- and what you say
6 and what's written down can and maybe used as
7 evidence later in this case. And as part of that
8 process, I'm going to ask you some questions.

9 And this is not a test or this is -- I'm
10 not trying to trick you. So if at anytime you
11 don't understand what I'm asking you, just say, I
12 don't understand the question. Could you rephrase
13 it? Could you ask it again? That's perfectly
14 fine. You know, a developing -- is not a test.
15 This is not a memory test. So if you don't know,
16 it's fine to say, I don't remember. I don't
17 recall. And we'll try and work from there, and
18 see what you do remember.

19 Because one of the things I notice you
20 doing just now, and I do this to, is giving a
21 nonverbal answer during a deposition. No, no.
22 And so please remember to shake your head yes or

1 no. I -- I'm sorry. When you're shaking your head
2 yes or no, please remember to include a verbal
3 response; do you understand?

4 A Yes.

5 Q Yes. Okay. Great. Thank you. That's
6 a good -- that's good practice. And that way,
7 when we go back to read the transcript later,
8 we'll see clear -- clear indications of yes or no.
9 Head shaking, even uh-huhs and uh-uhs can get
10 pretty confusing over a transcript.

11 The other thing that is going to happen
12 during the deposition that's unlike an interview
13 is that your lawyer may make objections to some of
14 my questions. It maybe concerning at first,
15 especially if you've ever been deposed, but it's
16 perfectly normal. So he'll make objections. And
17 generally, you will have to answer, still have to
18 answer the -- the question that I presented unless
19 your attorney says, do not answer.

20 So even though your attorney is
21 objecting, you still generally are required to
22 answer the question. Let's try not speak over

1 each other for the same reason, keeping a clear
2 transcript.

3 And the other thing, too, is, if you
4 ever need a break, you're thirsty, you need a
5 bathroom break, just needs to stretch those legs,
6 that's fine. Just let me know. And -- and if
7 there's an open question at the time, you'll --
8 you -- you answer that. And then we can take a
9 break. That's no problem at all. And did you
10 understand everything I just said to you?

11 A Yes, I do.

12 Q Okay. Great. And Ms. Kiser, those
13 rules, I admittedly batted them myself. So in
14 your professional discretion, if you ever need to
15 cut in and remind me to slow down or do something
16 to help the transcript, please -- please do so.

17 And, Ms. Wecker, are you in good health
18 today?

19 A I am.

20 Q Okay. Great. And is there anything
21 today that's impairing your ability to recall
22 facts or events, like mental or physical

1 condition, prescription medication, drugs or
2 alcohol, anything like that?

3 A No.

4 Q Okay. Thank you. So you -- we've
5 talked a little bit in 2017 for one year only, you
6 had the role of assistant principal. And what
7 does an assistant -- what did you do an assist --
8 as an assistant principal in that one -- now when
9 you say a year, is that an academic year?

10 A It's an academic year. So really if
11 you're talking about 2017, my last day was August
12 25th of that year.

13 Q Would it --

14 A And really I was --

15 Q -- be fair to say --

16 A -- on my --

17 Q Oh, I interrupted. Please continue.

18 A And I was on my way out after June, so
19 my hours were limited.

20 Q Okay. So is it fair to say that your
21 assistance vice as -- I'm sorry, assistant
22 principal of Bethel Christian Academy

1 approximately from 2000 -- August 2016 to August
2 2000 -- August 25th, 2017 with kind of a
3 transition out starting in June of 2017; is that
4 right?

5 A Correct.

6 Q Okay. Thank you.

7 A Yes.

8 Q And -- and what were some of your --
9 what were your roles as assistant vice principal
10 during this school year? I'm sorry, as assistant
11 principal.

12 A I was -- I was in charge of the middle
13 school.

14 Q Okay. Isn't Ms. Dant in charge of the
15 middle school, or is that incorrect?

16 A She is in charge of the middle school.
17 She was not for one year, from 2016 academic year,
18 2016, 2017. She was previous to that and post to
19 that.

20 Q Do you know what her role was that year?
21 So, like, what -- what roles did Ms. Dant have
22 other than assistant -- I guess, principal of the

1 middle school?

2 A In 2016, 2017 --

3 Q Yeah.

4 A -- or just in general?

5 Q Well, I guess in general. So let me ask
6 you this way: What were her roles in general? And
7 then that will -- that would let me know what --
8 what she would -- she would have been doing in
9 2016, 2017?

10 A I can't remember what year Alice left,
11 Alice Green, sorry. When Alice Green left, Claire
12 Dant became principal over the entire school. So
13 that was her job, the year that I was assistant
14 principal over the middle school.

15 Q So was Claire Dant your supervisor?

16 A Yes.

17 Q Okay. And so if there was ever a final
18 decision to be made with regard to the Bethel
19 Christian Academy in middle school, she had --
20 between the two of you, she had authority to make
21 that decision?

22 A Yes.

1 Q Okay. And you had mentioned that you
2 had some other roles at the school. Which one --
3 which role did you serve in immediately before
4 being the assistant principal?

5 A Director of enrollment, and the business
6 manager.

7 Q So -- so you had both roles at the --

8 A It was a dual role.

9 Q -- same time?

10 A Yes. And that was for most of the
11 twenty-two years previous.

12 Q I'm sorry, director of enrollment?

13 A Yes, sir.

14 Q And business manager. And before you
15 started at Bethel Christian Academy, did you have
16 any other careers or did you work any other -- at
17 any other schools?

18 A No. I -- I had other careers. I didn't
19 work in a school. I was a financial underwriter
20 for Saint Paul Fire and Marine, I worked for
21 Armour-Dial for a time as a territory rep, and I
22 worked in an advertising agency and managed my own

1 advertising agency.

2 Q That's -- those are quite a few careers.

3 Could you tell me a little bit about your

4 educational background? I assume you graduated

5 from high school; is that correct?

6 A Yes.

7 Q And where did --

8 A And I graduated from high school, yeah.

9 Q So --

10 A Yeah.

11 Q -- where did you graduate high school

12 from?

13 A Suitland High School.

14 Q Here in Maryland?

15 A Yes.

16 Q Okay.

17 A Suitland High school, Suitland,

18 Maryland.

19 Q And did you go to college?

20 A I did.

21 Q Where did you attend?

22 A Towson University. I'm trying not to

1 get ahead of you.

2 Q I know.

3 A It's a little hard.

4 Q And what -- what degree did you obtain
5 at Towson University?

6 A Finance and Economics.

7 Q Any postgraduate study?

8 A No.

9 Q Okay. So tell me -- let's talk about
10 the director of enrollment that you served in for
11 approximately twenty-two years. What is -- what
12 does that -- tell me about that position at
13 Bethel.

14 A Any student that came to the school that
15 needed a tour, their parents, you know, I would
16 tour them, talk to them, carry them through the
17 process until their application was in. And then
18 they would be turned over to whoever was doing
19 testing. And then they would do the interviewing
20 after the testing.

21 Q Did you meet with every student who was
22 admitted at Bethel Christian Academy generally?

1 A Ninety-nine percent, yes.

2 Q Okay. And why would there be an
3 occasion rarely where you didn't meet with a
4 student who -- who was later admitted into the
5 school?

6 A I can't -- I can't -- the only reason I
7 say ninety-nine percent is I can't say with
8 hundred percent certainty. That's a long period
9 of time.

10 Q Sure.

11 A I could've been on vacation or, you
12 know, someone could have come directly to the
13 middle school and Claire could have taken that.
14 But ninety-nine percent -- I could say ninety-nine
15 point nine, you know. I'm just trying not to --
16 I'm under oath.

17 Q Yes. I -- I appreciate that discretion.
18 Did anyone work for you as the director of
19 enrollments to help you in that role?

20 A Yes, Christina Bradshaw was --

21 Q Well, let me --

22 A -- under me for a time.

1 Q Let me ask a more limited question. In
2 five years before 2016, did anyone work for you?

3 A No.

4 Q No? Okay. It was just you in the
5 director -- that's director of enrollment. Okay.

6 A Uh-huh.

7 Q Would you interview prospective
8 students?

9 A I would do -- I would do the initial --
10 my job was sales; right? So I would be the
11 welcoming force, the one that took them on the
12 tour, answering every question they have, try to
13 get as much information as possible. And like I
14 said, through the -- when the application and the
15 application fee came in, we would create a file
16 for them. And then it would be off to testing.

17 Q Okay. I would like to talk a little bit
18 about your role as the business manager. So what
19 -- what did -- what were your responsibilities as
20 the business manager, generally, for Bethel
21 Christian Academy?

22 A Just to -- to make sure that we were on

1 track financially. I also handled financial aid.
2 So I would encourage students to apply for
3 financial aid if they needed it. And I would go
4 out and try to find other forms of financial aid.
5 There was a great need.

6 Q Okay. So helping financial aid,
7 scholarships. Is it fair to say that you were
8 familiar with the BOOST Scholarship Program in
9 terms of the funding you provided to the -- to the
10 school, Bethel Christian?

11 A Very much so.

12 Q Okay.

13 A Yes, sir.

14 Q How important was that funding to the
15 school? The -- the BOOST scholarship funding?

16 A That's a hard question to answer. How
17 important was it? It wasn't there for the first
18 twenty years I worked there; right? Or
19 twenty-one. I can't really remember exact times
20 and dates if -- and I'm not trying to be
21 difficult, honestly. But I did everything I could
22 for every family I could to support them in coming

1 to and staying in the school. In that context, it
2 was very important. Because these are people --
3 we didn't serve an overserved community. We
4 served an underserved community.

5 Q Uh-huh. Do you recall in 2016, 2017,
6 that school year, at the middle school, how much
7 tuition was for a student?

8 A I couldn't tell you, I'm sorry.

9 Q Okay.

10 A Somewhere between 6500 and 7500, would
11 be my guess.

12 Q And is it cheaper to attend the
13 elementary school or the lower schools, or more
14 expensive?

15 A By -- I believe it was cheaper by \$100
16 or --

17 Q Okay.

18 A -- \$200. There wasn't a large
19 differentiation in -- in those days. I don't know
20 if there is now.

21 Q You mentioned that one of your other
22 jobs was to find scholarships. Was that -- so the

1 -- did you mean scholarships for students
2 attending -- who might attend the school?

3 A Yes.

4 Q Okay.

5 A Well --

6 Q What --

7 A -- and under my -- yes-- I shouldn't
8 have volunteered yes --

9 Q Go ahead. No, no. I -- I -- what kind
10 of scholarships are out --

11 A I --

12 Q -- there and what kind of scholarships
13 would you pursue?

14 A We pursued from internally, getting
15 scholarship money from other parents. We pursued
16 -- we pursued the BOOST Program, quite honestly.

17 Q What do you mean that you pursued the --

18 A And any --

19 Q -- BOOST Program?

20 A -- well, you know, there was a time when
21 BOOST wasn't a thing; right? It's not that old.
22 And so when they had school choice week, we took

1 our middle schoolers down and talked to the
2 senators and the representatives, and talked about
3 what a -- how that would help private schools and
4 how important it is for -- they -- you know, they
5 are still students of the state of Maryland. And
6 the state of Maryland can save a lot of money if
7 they are in a private -- if they're in private
8 education.

9 So I did. We talked to their senators.
10 I found out who their state senators were because
11 they're from a -- a relatively -- a small area
12 geographically, but a large area when you consider
13 how many state senators and state representatives.
14 And we would go and visit all of them, as many as
15 would have us; right? So when we finally got the
16 funding, that was a -- that was the big day.

17 Q Other than BOOST, were there any other
18 Maryland state scholarships that you pursued?

19 A No, sir.

20 Q Okay. Were there any private
21 scholarships other than Bethel parents that you
22 pursued for students?

1 A We did some grant writing for a few
2 years. Because if you can get a grant from one
3 place, it can take some of the -- you know, so we
4 got a grant to do nonsmoking education. And we
5 got a grant for computers. And anything we could
6 get grants for, we would get grants for --

7 Q Okay.

8 A -- to take the pressure off financially.

9 Q Now, I don't -- I don't know a lot about
10 grant writing generally, but my understanding is
11 that, whereas a grant would go to the school or
12 institution, the scholarship goes to the student.
13 Is that generally correct?

14 A That is correct.

15 Q Okay. And what kind -- well, who -- who
16 would -- who would be offering these grants? Do
17 you recall any of the names of institutions that
18 were offering the grants?

19 A I couldn't tell you, no, I'm sorry.

20 Q Do you remember approximately, how much
21 in 2016, 2017, how much money Bethel School
22 overall received from private grants?

1 A Probably none. By that time our grant
2 writer had left.

3 Q Okay.

4 A Probably four or five years previous.
5 And so we began FACTS, which is internal money
6 going to students.

7 Q Okay. And what -- what was that grant
8 writer's name; do you recall?

9 A Kim Manning.

10 Q Can you -- are you able to spell that?

11 A M-A-N-N-I-N-G.

12 Q Do you know why she left?

13 A Well, her husband is a pastor in the
14 Assemblies of God, and I think she -- actually, I
15 think she left because she came -- became the
16 executive director of the Autism Society. I mean,
17 the -- like Autism Howard County. The county in
18 which we live, she became the executive director
19 there. It took me a minute to figure it out.
20 That might have been ten years ago. I don't know;
21 right?

22 Q Do you remember -- do you remember if

1 Bethel Christian Academy attempted to hire a new
2 grant writer after --

3 A No.

4 Q -- she left?

5 A We did not.

6 Q No, you don't recall, or no, you don't
7 remember whether you tried to hire?

8 A No, we did not. We did not attempt to
9 hire a new grant writer.

10 Q Do you know why you did not -- the
11 school did not attempt to hire a new grant writer?

12 A It -- it wasn't a priority. We had
13 enough students, and we were funding our -- our
14 scholarship program through FACTS; right? And so
15 that's why. I mean, it wasn't -- there's no weird
16 reason. It was, like, we just didn't.

17 Q So in the -- in your -- in approximately
18 twenty-two years of Bethel Christian Academy,
19 you've been the director of enrollment, the
20 business manager. Have you served in any other
21 roles at the schools that you recall?

22 A Yes. The first year I was there, I

1 created the Hot Lunch Program for them. That's --
2 that's initially how -- how I got hired. But it
3 was because I have five children, and I wanted
4 them to go to that school. And in private schools
5 are very expensive. So when we interviewed, I
6 said, what can I do? And that started the
7 process.

8 Q Okay. So you were a Hot Lunch Program
9 coordinator. I'll use that word. Any other roles
10 that you recall or remember?

11 A No.

12 Q No? That was it?

13 A Duties, not roles, yes.

14 Q Roles? Okay. Did you ever have a role
15 as teacher at the school?

16 A I'm sorry, what?

17 Q As a teacher?

18 A Not -- no.

19 Q Okay.

20 A I mean, I -- I did things. Did some
21 school plays, things like that with the kids.

22 Q Okay.

1 A But I -- I was never a classroom
2 teacher, no.

3 Q All right. In your twenty-two years
4 through -- at Bethel through the present, have you
5 ever served on a governing board or a commission,
6 or a committee for the school?

7 A I was on the finance committee.

8 Q Okay. Do you remember what years you
9 were on the finance committee? Was it -- was --

10 A I don't know when I started. But when I
11 left, I was off the finance committee. Yeah,
12 whenever, you know, Pastor Green started, he -- he
13 started the finance committee.

14 Q Okay.

15 A Before that I was two years, or maybe
16 one year on the school board. I -- you know.

17 Q One or two years on the school board?

18 A Yeah. But that was, you know, fifteen
19 years ago.

20 Q So I have a young child, so I'm not
21 quite sure what a school board is. So what --
22 what is -- what is your role as -- were -- were

1 you a parent on the school board, or were you a
2 staff member on the school board?

3 A I was a parent on the school board. And
4 I didn't --

5 Q But what --

6 A -- do much.

7 Q You didn't do much? Okay. Well, what
8 kind of things they did not do much of?

9 A They met once a quarter, talked about
10 kind of what was coming up, what, you know -- we
11 basically listened. We didn't -- there wasn't a
12 lot of action on that school board.

13 Q Okay. Now, during Ms. Dant's deposition
14 earlier in this case, she mentioned that you also
15 helped with the 2 -- in 2017 with the student
16 handbook review process that was being
17 administered by BOOST and MSDE; is that correct?

18 MR. TUCKER: Objection. Form.

19 A I'm trying to think how to answer that.
20 Because it really wasn't -- it wasn't connected to
21 BOOST and MSDE. It was only -- it was reviewing
22 the handbook every year. So that's different than

1 what you're saying, I think.

2 Q Okay. Let me ask a little more
3 questions about reviewing the handbook in
4 connection with BOOST and MSDE. Did you
5 communicate with any -- that you remember, do you
6 remember communicating with any officials at MSDE
7 about Bethel's student handbook?

8 A I don't recall talking to anyone
9 specifically.

10 Q So you don't recall talking to anyone.
11 Do you recall e-mailing with anyone specifically?

12 A Maybe. I --

13 Q Okay.

14 A -- you know, I can't give you a
15 definitive -- yeah.

16 Q But you don't recall?

17 A No.

18 Q Okay. Did you correspond either in
19 writing or verbally with anyone on the BOOST board
20 about Bethel's student handbook?

21 A Not that I remember. Again, it's been a
22 while. So if -- if I signed something or did

1 something, show it to me. I'm, you know --

2 Q That's --

3 A -- it's possible.

4 Q That's -- that's great. That's --
5 that's -- that's a really good idea. Did -- so
6 tell me a little -- I'm curious about the book --
7 so you were -- I -- I'm going to withdraw that.

8 So Bethel reviewed its handbook every
9 year. Were you apart of that process every year?

10 A Yes.

11 Q Okay. When in the -- when did the
12 handbook -- when did the annual handbook review
13 process start, if you remember?

14 A It would probably have to start before
15 enrollment because we give it out with enrollment.
16 So my portion of it, which was the financial
17 portion and the financial aid portion, started in
18 January.

19 Q So --

20 A I don't know when it finished. I don't
21 have, like, a concrete answer for you.

22 Q Yeah.

1 A I'm sorry.

2 Q Yeah. Well -- and no, and I asked the
3 -- an unclear question. Because what I really
4 meant to say was: What year, if you remember, did
5 -- did Bethel start reviewing its handbook
6 annually?

7 A I think when Alice and Claire came on
8 board. So whenever year that was. And I can't be
9 definitive about that.

10 Q I appreciate that.

11 A But I believe that's about when it
12 started, yes. I don't recall having much of a
13 handbook before that time.

14 Q And you said when Alice and Claire came
15 on board. And you mean -- it's Alice Green and
16 Claire Dant; is that right?

17 A Yes.

18 Q Okay. And they came on board. Did they
19 come on board at -- to Bethel at the same time, or
20 is that in different years?

21 A I think Alice came on board. And then
22 two years later, Claire did, I believe. You'd

1 have to look at the personal record, but I think
2 there was somebody in the interim.

3 Q Do you recall Alice Green's position
4 when she started?

5 A She was a teacher when she started.

6 Q She was a teacher? Okay. And -- and I
7 know Claire's had worked for the school for a
8 number of years, too. So -- okay. There's no
9 question there. So did you -- were -- and were
10 you involved with the review -- annual review of
11 the handbook because of your role as the business
12 manager?

13 A Yes.

14 Q So that was participating in the annual
15 review of the Bethel handbook was one of your job
16 duties as the business manager?

17 A Yes. The financial piece and the
18 financial aid piece.

19 Q Yeah.

20 A That was my role.

21 Q What about as your role as director of
22 enrollment? I mean, you were involved in sales.

1 The handbook is, you know, a sales -- the
2 marketing material, I guess. Did so -- what --
3 had -- what -- what kind of involvement as
4 director of enrollment did you have with the
5 handbook?

6 A Those were the only two pieces that I
7 reviewed.

8 Q Okay.

9 A Okay. And we didn't really give them a
10 handbook until they were already enrolled in the
11 school. We gave them an application, a statement
12 of cooperation. When they were fully enrolled, I
13 believe, is when they received the handbook.

14 Q You said they received when they were
15 applying or interested in applying an application
16 and a statement of cooperation?

17 A Yes.

18 Q Okay. So it sounds like you wouldn't
19 consider the handbook to be a marketing material,
20 something you would use in recruiting new schools.
21 Okay. Would you consider --

22 A No. I'm sorry, would you say that out

1 loud?

2 Q Yes. Thank you. Thank you. Would you
3 consider the application part of your recruitment
4 materials, sales materials?

5 A Sure.

6 Q Sure?

7 A I mean, it wasn't a recruitment aid. It
8 was like, here's the application.

9 Q Uh-huh.

10 A If you're interested, here are the forms
11 that you have to sign, you know, get them back to
12 me, get a check. I'll put everything through.

13 Q Okay. So the statement of cooperation
14 also wasn't a primary sales or marketing material.
15 Is that fair to say?

16 A No.

17 Q Okay.

18 A No. Absolutely not.

19 Q Did you -- while you were serving as the
20 director of enrollment for Bethel, had -- did you
21 ever create marketing materials, sales materials,
22 advertisements?

1 A Yes, I did -- I did the marketing
2 materials. That was --

3 Q Okay.

4 A -- my -- part of -- that was under my
5 purview.

6 Q What kind of marketing materials do you
7 remember creating?

8 A Well, from running television ads and
9 writing them to a trifold brochure to a TIFF
10 folder when you come to make them look all
11 beautiful so that we looked professional when
12 somebody came in.

13 Q Television ad, do you remember what
14 channels they appeared on?

15 A All of them. I am Bethel Christian
16 Academy. Yes.

17 Q Did you -- did you star -- did you star
18 in any of the television ads?

19 A Absolutely not. I am a
20 behind-the-scenes girl. Claire and Alice were
21 both in the ad.

22 Q Okay.

1 A You could probably find them somewhere.

2 Q So was there a process each year for
3 modifying the handbook or reviewing the handbook?

4 A I'm sure there was. You know, it's on a
5 list of things we do, I'm sure.

6 Q Yeah.

7 A I -- I'd would get my piece of it. Is
8 this good? Yes. Moving on; right?

9 Q To help me understand a little bit
10 conceptually about what a handbook review might
11 look like at Bethel Christian Academy, when would
12 it start, like approximately -- so let's say the
13 2016, 2017 school year, if you can remember, when
14 did or when would have the handbook review process
15 started?

16 A I can't -- I can't tell you exactly
17 when. I'm going to guess it would be in January
18 for the following year. I would get my piece of
19 it to review. I would review it, make changes to
20 the tuition; right? I make -- if there were any
21 changes in the financial aid section of the
22 handbook. And then that was my part of the job.

1 Q Was there any meetings with other staff
2 members, in-person meetings regarding the review
3 and revising the handbook?

4 A I don't recall. No.

5 Q Okay.

6 A No. I mean, they may have met. I did
7 not meet with them; right?

8 Q Okay. Who's -- who's they?

9 A Alice and Claire.

10 Q Okay.

11 A Yeah.

12 Q Alice and Claire, and Alice serving as
13 the principal and Claire serving as the assistant
14 principal?

15 A The assistant principal.

16 Q Okay.

17 A And perhaps Brenonda who was kind of
18 being groomed for that role. In the last year,
19 she had that -- the role in the elementary
20 pre-school area; right?

21 Q I'm sorry, could you say her name again,
22 please?

1 A Brenonda, B-R-E-N-O-N-D-A.

2 Q And her last name, if you remember?

3 A I -- I -- Jackson, I think. Yeah,
4 Jackson.

5 Q So she was the assistant principal
6 overseeing the Bethel Elementary School; is that
7 right? In 2016?

8 A She -- I don't -- I'm not sure if she
9 was an assistant principal or just there; right?
10 As Claire was moving between campuses.

11 Q Okay. And I believe you had said that
12 she was being prepared or trained to eventually
13 take over as an assistant principal?

14 A I believe so, yes.

15 Q Okay. Do you -- do you know if Brenonda
16 ever became an assistant principal at Bethel
17 Christian Academy?

18 A I haven't been back since I -- sorry.
19 And --

20 Q That's --

21 A -- I can't -- I mean, I can't remember.
22 I'm so sorry, but I can't.

1 Q That's fine. That -- and this is not a
2 memory test.

3 A Okay.

4 Q So I appreciate it. And was -- last
5 question about Brenonda: Was she still at the
6 school in 2017 after you left and retired from the
7 school?

8 A I believe so.

9 Q Okay. In 2016, 2017, during the Bethel
10 handbook review process, were there any -- any
11 e-mails exchanged between you, Claire, or Alice?
12 Individually or collectively?

13 A Well, I think Alice was gone by then.

14 Q Oh, right. That's right.

15 A So -- so maybe -- I mean, surely between
16 Claire and I. But --

17 Q Do you --

18 A -- mostly we met in-person, you know.

19 Q Okay. What kind of things would you
20 talk about when you met in-person with Ms. Dant
21 when you were discussing the handbook reviews?

22 A Oh, the handbook review, really. I -- I

1 can't remember. I mean, I'm sure I read it, you
2 know, but I can't tell you specifically things we
3 would talk about. If there were changes that were
4 made, that was not in my purview.

5 Q Okay. Did you ever -- in -- in the
6 context of your discussions with Ms. Dant about
7 the annual handbook review, did you ever discuss
8 the statement of nondiscrimination in the handbook
9 policy?

10 A Maybe. I -- you know, I have to take a
11 look at it. I could tell you more, but I -- I'm
12 sure there's a statement of nondiscrimination
13 that's required by law; right?

14 Q Yeah.

15 A Yeah.

16 Q And -- and my -- my question was: Did
17 you -- did you ever recall discussing the
18 statement of nondiscrimination with Ms. Dant in
19 the context of the handbook review?

20 A I don't recall. I may have, I may not
21 have. I -- I'm trying to help, but I just --

22 Q That's fine.

1 A -- it's been a while.

2 Q That's fine. Do you recall speaking
3 with anyone in 2016, 2017 about the Bethel -- the
4 statement of nondiscrimination in the student
5 handbook -- okay. I'm going to reask that
6 question.

7 In 2016, 2017, do you recall talking
8 with anyone for any reason about the statement of
9 nondiscrimination in Bethel's student handbook?

10 A I really don't remember.

11 Q Okay.

12 A I -- it's possible I had a conversation.
13 I don't remember.

14 Q So I'm going to ask a really broad
15 question now. Do you ever recall ever having a
16 conversation with someone about the statement of
17 nondiscrimination in Bethel's student handbook?

18 A Not that I know of. No. Is it
19 possible? Maybe. But --

20 Q Okay.

21 A I'm really sorry. I wish I give you
22 better help.

1 Q Do you remember talking to anyone ever
2 about Bethel's admissions policies in general?

3 A Sure. I talked to all of the parents
4 about Bethel's admissions policy.

5 Q Okay. Okay.

6 A If -- when they are new -- you know,
7 when they are a new family.

8 Q I'm going to jump around chronologically
9 a little bit. In 2019 and 2020, Bethel Christian
10 Academy reapplied for admission into the BOOST
11 Program. Were you involved, or did you help at
12 all with Bethel's reapplication to the BOOST
13 Program in 2019, 2020?

14 A I was gone, yeah.

15 Q Okay.

16 A No. I did not.

17 Q What -- what is you -- what did you --
18 and I apologize for talking over you. What --
19 what is your role today, or what is your
20 involvement today with Bethel Christian Academy?

21 A Zero.

22 Q Okay. You volunteer?

1 A No.

2 Q Do you drive by on occasion?

3 A Maybe once in four -- the four years
4 I've been gone. I'm a little busy, so --

5 Q Got it. Are you a member of -- I'll ask
6 another question. Bethel Christian Academy is
7 connected with Bethel -- the -- the religious
8 institution, Bethel Ministries; is that correct?

9 A Correct.

10 Q Okay. And are you involved with the
11 religious institution Bethel -- Bethel Ministries?

12 A No, I'm not.

13 Q Okay. Were you ever a member of the
14 Bethel Ministries' congregation?

15 A No.

16 Q But you wanted your children to attend
17 Bethel Christian Academy?

18 A Yes.

19 Q Okay.

20 A It was a --

21 Q But why did you --

22 A -- really good school.

1 Q Yeah. Tell me about that. Why did you
2 like Bethel Christian Academy as a school for your
3 -- for your children?

4 A It was a really good school. And I had
5 been raised in public school, and I -- and you
6 obviously don't know much about Suitland High
7 School, so I will say that it was not a very good
8 school. And I wanted my children to have the best
9 of what I could give them, and it was convenient
10 to my home. And the academics were second to
11 none. So that's why I put them there.

12 Q In -- okay. So -- in your role in
13 Bethel Christian Academy, did you ever review or
14 participate in signing the assurances required by
15 the BOOST Program?

16 A I believe I did.

17 Q Okay. What did you do in connection
18 with the assurances?

19 A I believe I signed it as the business
20 manager.

21 Q Okay.

22 A The years that I -- you know, the first

1 three years; right? Because after that, I wasn't
2 there.

3 Q Okay.

4 A Or maybe the first two years. I don't
5 know. Again, the timing is fuzzy.

6 Q Okay. Great. Well, we'll look at the
7 assurances later. I have some documents to show
8 you. I'm just trying to figure out what do you
9 know about so that I'm asking you intelligent
10 questions later about document, so that's helpful
11 to know.

12 A All right.

13 Q Thank you. Are you aware that BOOST --
14 or MSDE after it removed Bethel from the BOOST
15 Program attempted to or threatened to call back or
16 recollect -- or collect, I'm sorry, the money that
17 it had distributed previously for 2016, 2017 after
18 -- they then tried to recollect those
19 scholarships? Were you aware of that?

20 A I believe somebody mentioned it to me in
21 passing that came into the restaurant. But --
22 yeah.

1 Q Did you assist Bethel in any way in
2 regards to the call back issue with MSDE and
3 BOOST?

4 A No, sir.

5 Q Okay. And -- okay. Well, thank you.
6 And -- and what's the name of your restaurant, by
7 the way? I'm curious.

8 A Well, we have four.

9 Q Well, that's --

10 A We have Cured and 18th & 21st in
11 Columbia, downtown. We have Iron Bridge Wine
12 Company. And we have two Mutiny Pirate Bar; one
13 in Elkridge and one in Pasadena.

14 MR. FINE: That's great. Well, I've --
15 I've only worked in -- I tell you what -- I'm
16 going to take a quick ten-minute break, if that's
17 all right, Counsel.

18 MR. TUCKER: Sure.

19 MR. FINE: So can we go off the record?

20 THE REPORTER: Yes. It is 2:57 p.m.,
21 and we're off the record.

22 (Whereupon, a discussion was held off

1 the record.)

2 THE REPORTER: It's 3:10 p.m., and we're
3 back on the record.

4 MR. FINE: Okay.

5 THE WITNESS: Do we have to redo the
6 meter?

7 MR. TUCKER: I'll take care of that.

8 THE WITNESS: Okay.

9 MR. FINE: Ms. -- Ms. Weck [sic], do you
10 -- do -- are you -- do you need to be sensitive
11 about the parking meter?

12 THE WITNESS: Oh, I just asked him. He
13 said he will take care of it in a little while.

14 MR. FINE: Okay.

15 THE WITNESS: Yeah.

16 MR. FINE: Okay.

17 THE WITNESS: We're okay.

18 MR. FINE: Okay. Wonderful. All right.
19 Ryley, could you please bring up Deposition
20 Exhibit 2?

21 REMOTE TECHNICIAN: Of course. Give me
22 one moment while I get that for you, Counsel.

1 BY MR. FINE:

2 Q Ms. Wecker, since the pandemic, have you
3 done many video calls or Zoom calls, or things
4 like that at all?

5 A Only a thousand.

6 Q Only a thousand? So that's -- that's
7 five-hundred more than me, so I'm still getting
8 used to this. So as we try and look at this
9 document together over different screens just, you
10 know, if you need to zoom in or zoom out, please
11 just -- please let me know.

12 A Okay.

13 Q All right. So this is -- this was
14 previously presented during Claire Dant's
15 deposition. This is Dep Exhibit 2, and this is a
16 2017-2018 Bethel Christian Academy Parent Student
17 Handbook.

18 Do you recognize this document, Ms.
19 Wecker?

20 A Sure. Yes.

21 MR. FINE: Okay. Great. And, Ryley,
22 could you please turn to the table of contents

1 which I believe is on page 004 at the top?

2 There's some Bates numbering. So it's -- yes,
3 perfect.

4 Q Okay. So I believe that the table of
5 contents goes on several pages, Ms. Wecker, but
6 you had mentioned that you every year had revised
7 certain sections as part of your job as the
8 director of enrollment and as the business --
9 business manager; is that correct?

10 A That is correct.

11 Q Okay. So on this -- are you able to see
12 this page? Is it large enough?

13 A I can see this page.

14 Q Okay.

15 A If I need to lean in, I will.

16 MR. FINE: Okay. Sure. And, Ryley,
17 could you zoom in a little bit for us?

18 THE REPORTER: I'm sorry.

19 MR. FINE: Not on my screen.

20 THE REPORTER: Counsel, can you hear me?
21 When she --

22 MR. FINE: Yes.

1 THE REPORTER: -- maneuvers the
2 exhibits, it cuts me off. So I didn't catch any
3 of that last (inaudible) --

4 MR. FINE: Oh, okay.

5 THE REPORTER: -- I have --

6 MR. FINE: Thank you for (inaudible) --

7 THE REPORTER: I don't know what's
8 happening. But Ryley, every time you maneuver an
9 exhibit, and it happened earlier, I get
10 disconnected (inaudible) --

11 REMOTE TECHNICIAN: One moment.

12 MR. FINE: I'm -- I'm actually having a
13 hard time hearing you now, Madam Court Reporter.
14 I'm wondering if it's the --

15 REMOTE TECHNICIAN: Madam Court
16 Reporter, I think you're -- you're coming in and
17 out for me as well. It looks like you might have
18 even been temporarily dropped from the call.
19 Would everyone mind if we went off the record for
20 just a moment?

21 MR. FINE: Of course.

22 REMOTE TECHNICIAN: Thank you.

1 (Whereupon, a discussion was held off
2 the record.)

3 THE REPORTER: It is 3:28 p.m., and we
4 are back on the record.

5 BY MR. FINE:

6 Q You are looking at Deposition Exhibit 2,
7 and we are currently on the table of contents.
8 Ms. Wecker, do you see under where it says,
9 Welcome, it says, about BCA? The --

10 A Yes.

11 Q Okay. Did you or have you written any
12 part of the admissions policy?

13 A No.

14 Q Okay. Have you written or revised any
15 of the bullet pointed documents listed under,
16 about BCA?

17 A No.

18 Q Do you know who -- who advises or who
19 wrote -- let me -- let me ask this question: Do
20 you know who wrote the admissions policy?

21 A I'm -- I'm going to guess Claire, but I
22 don't know for sure.

1 Q Okay. And if you had to guess, do you
2 know when Ms. Dant wrote the admissions policy?

3 MR. TUCKER: Objection. Form.

4 A I don't know. Could I see it?

5 Q Okay. Sure. Sure.

6 MR. FINE: Ryley, could we --

7 Q Well, let -- let me -- before we go to
8 it, so you said you -- did you write any of the
9 documents under Section 2, Academic issues and
10 awards? Did you write any of those documents up?

11 A No. I mean --

12 Q Okay.

13 A -- I can't see them all, but I don't
14 think so.

15 MR. FINE: All right. And Ryley, could
16 you go to the next -- actually page 0006 of the
17 file?

18 REMOTE TECHNICIAN: Yes, one moment.
19 And let me know where you'd like it zoomed in,
20 Counsel.

21 MR. FINE: Okay. I'd like you to zoom
22 in on Section X, financial information.

1 Q Okay. Ms. Wecker, can you see Section X
2 of X of the table of contents that refers to
3 financial information?

4 A Yes.

5 Q And it lists a series of documents. Are
6 these the documents that you revised or wrote in a
7 given year for the Bethel Student Handbook?

8 A Yes. But I mean, honestly, I can't
9 recall if I did it in '17, '18 or not. Because
10 remember, I was on my way out, so --

11 Q Uh-huh. Okay. So you can't recall if
12 you --

13 A I think --

14 Q -- revised this in --

15 A Yes.

16 Q Okay. So you can't recall who revised
17 the Bethel Student Handbook in 2016, 2017?

18 A I -- I cannot recall, no.

19 Q Okay.

20 A If I see the documents, that might help
21 me. But I can't just look at a word and say, did
22 I do that; right? Yeah.

1 MR. FINE: Sure. Ryley, could you take
2 us to page 0008, please? Okay.

3 REMOTE TECHNICIAN: Let me know where
4 you'd like me to --

5 Q This is the admissions --

6 MR. FINE: I'm sorry, what was that,
7 Ryley?

8 REMOTE TECHNICIAN: Let me know when --
9 where you'd like me to zoom.

10 MR. FINE: Okay. For now, this is fine.

11 Q So Ms. Wecker, this is the admissions
12 policy. Does -- does this look familiar at all to
13 you?

14 A It does look familiar. The wording is a
15 little different than I remember.

16 Q What -- what about the wording is a
17 little different than you remember?

18 A It's just the second line of the first
19 paragraph. I don't remember that, at least not
20 the word unashamedly. I believe I remember the
21 rest of it. The word unashamedly, I don't
22 remember.

1 Q Okay. What is your reaction --

2 A Everything else was --

3 Q -- to seeing that word?

4 A Neutral. Just interesting.

5 Q Interesting how?

6 A I just don't remember it. That's all.

7 Q Uh-huh.

8 A I -- not --

9 Q Is -- is there a different word that you
10 would use other than unashamedly if you were to
11 have written -- hypothetically, if you were to
12 write this, would you use another word other than
13 unashamedly?

14 MR. TUCKER: Objection. Form.

15 A I -- I just -- yeah, I don't remember
16 that word, and the -- the sentence could stand
17 without it.

18 MR. FINE: Ms. Ryley, could you scroll
19 down four clicks? Okay.

20 Q So -- well, now we're looking at the
21 admissions policy zoomed out. And I'm going to
22 ask, again: Do you recall writing or revising the

1 admissions policy during your tenure at Bethel
2 Christian Academy?

3 A I recall reviewing it. I don't recall
4 writing it myself.

5 Q Okay. And having looked at the
6 admissions policy, do you recall who wrote it?

7 A I don't know.

8 MR. FINE: Okay. And Ryley, if you
9 could zoom into the last sentence of the third
10 paragraph that starts, Parents must understand.

11 A I can read that.

12 Q Sure. And you're familiar -- you're
13 familiar with this policy; correct?

14 MR. TUCKER: Objection. Form.

15 A I'm --

16 Q Do you recognize this admissions policy?
17 Ms. Wecker, do you have any reason to dispute --

18 A Yes.

19 Q Ms. Wecker, do you have any reason to
20 dispute that this admissions policy is not the
21 Bethel Christian Academy admissions policy for
22 2017-2000 -- oh, I'm sorry, for 2016-2017?

1 A This is the one from 2016-2017?

2 Q I'm asking you if you have any reason to
3 believe that it is not --

4 A For 2017-2018, I don't -- I don't -- I
5 have no reason to dispute it.

6 Q Okay. Thank you. And I'm -- did I say
7 the wrong -- I think I said the wrong year. I
8 meant 2017-2018.

9 Now, the -- the -- the sentence that
10 we're focusing on, the last word is, And it's
11 policies. Do you know what that includes? What
12 that word includes, policies?

13 MR. TUCKER: Objection. Form.

14 A I think that's self-explanatory.
15 Whatever is -- whatever their policies are, the
16 parents will support the school and the function
17 of the school.

18 Q Is the Parent Student Handbook from
19 2017, 2018, is that part of Bethel Christian
20 Academy's policies?

21 MR. TUCKER: Objection. Form.

22 A I can't answer that question.

1 Q And why are you unable to answer that
2 question?

3 A Because that wasn't part of my purview.

4 MR. FINE: Okay. Can we scroll down so
5 that the statement of nondiscrimination is the
6 primary focus of the view?Okay.

7 THE WITNESS: Can we change the --

8 MR. FINE: And, Ms. Wecker, do you have
9 -- yes.

10 THE WITNESS: I -- I can't see it. I
11 can't see -- can we make it smaller so that I can
12 actually read it all? Because everybody's photo
13 is on the right-hand side of the page.

14 MR. FINE: Sure. Sure. That's fine.
15 So Ms. Wecker, could you tell Ryley how to adjust
16 the screen so that --

17 THE WITNESS: That's --

18 MR. FINE: -- the statement --

19 THE WITNESS: -- perfect.

20 MR. FINE: -- on nondiscrimination --

21 THE WITNESS: Okay.

22 MR. FINE: -- is --

1 REMOTE TECHNICIAN: Also Ms. Wecker, you
2 can move those faces if you'd like. They're
3 draggable.

4 THE WITNESS: Oh, they are. Okay. I
5 didn't realize that. Thank you.

6 MR. FINE: Sure.

7 Q And Ms. Wecker, do you have any reason
8 to believe that this is not the statement of
9 discrimination in the Bethel Christian Academy
10 Student Handbook for 2017, 2018?

11 A No, I do not have any reason to --

12 Q Okay.

13 A -- dispute that.

14 Q In the first paragraph of the statement
15 of nondiscrimination, are you aware that it does
16 not say or contain the word sexual orientation?

17 A I can see that.

18 Q Okay. Do you know why sexual
19 orientation was left out of the statement of
20 nondiscrimination?

21 MR. TUCKER: Objection.

22 A I have no idea.

1 Q Who would be the best person to ask
2 about that statement of nondiscrimination?

3 A That would be Claire.

4 Q Would be Claire?

5 MR. FINE: Can we go to the next page,
6 Ryley?

7 Q Ms. Wecker, are you able to see that
8 we're on a page entitled, Statement of Faith?

9 A Yes.

10 Q Earlier, I asked you if what would be
11 part of -- what would you consider part of
12 Bethel's policies. Is the statement of faith on
13 this page, would you consider this to be part of
14 Bethel's policies as referred to in the admissions
15 policy?

16 A I said the statement of cooperation. I
17 don't -- this is the statement of faith for the
18 Assemblies of God.

19 Q So my question is: Would you think that
20 this is part of the -- of the school's policies as
21 referred to in the admissions policy section?

22 MR. TUCKER: Form.

1 A I don't -- I don't think so.

2 Q Okay.

3 A I think it's just the statement of faith
4 from the Assemblies of God.

5 Q So that's -- the Deposition Exhibit 2,
6 that's the student handbook that's one of the
7 central documents in this case. We might return
8 to this. But I wanted to show it to you so
9 hopefully it may be reflected --

10 A Okay.

11 Q -- to your recollection a little bit,
12 but I'm going to put that aside for now.

13 MR. FINE: Ryley, could you bring up
14 Deposition Exhibit 4? I'm sorry, yeah, Ryley.
15 And then Ms. Kiser, are you still able to hear us
16 okay?

17 THE REPORTER: I can hear you just fine.
18 Thanks.

19 MR. FINE: Okay. Thank you.

20 Q Ms. Wecker, are you able to see the
21 document? Do you need Ryley to adjust it at all?

22 A I can see it. I'm good.

1 Q Okay. So I've presented Deposition
2 Exhibit 4. It's a document entitled,
3 Pre-Enrollment Parent Interview -- Interview. Do
4 you recognize this document?

5 A I do not.

6 Q Okay.

7 A I have never used this document.

8 Q Cause --

9 A This is --

10 Q -- when I look at a document --

11 A -- probably -- oh, sorry.

12 Q This is --

13 A Can I --

14 Q -- this is probably from what?

15 A This is --

16 Q Yes, please.

17 A -- probably from the interview process
18 after they left me; right? So I didn't use this
19 document at all.

20 Q Thank you. That answered my question
21 because, again, I don't know much about Bethel's
22 enrollment procedures or -- or -- or techniques.

1 But to me -- so what you're saying then is that
2 the interview is separate from the sales marketing
3 component that you worked on; is that right?

4 MR. TUCKER: Objection.

5 A Yes.

6 MR. TUCKER: Form.

7 Q Okay.

8 THE REPORTER: I'm sorry, Mr. Tucker,
9 did you just say object to form?

10 MR. TUCKER: Yes.

11 THE REPORTER: Okay. Perfect. It's
12 just because -- I can't see you, if you could
13 speak a little louder. I did get that though, but
14 thank you. I'm sorry for interrupting.

15 MR. TUCKER: No problem. I'll -- I'll
16 speak louder.

17 Q Ms. Wecker, I'm trying recall earlier
18 you mentioned that, and I'm paraphrasing, but that
19 the student handbook, the Parent Student Handbook,
20 was not part of your sales or marketing materials.
21 And that it wasn't given to students until near
22 the end of the process. Is -- is that a fair

1 summation?

2 MR. TUCKER: Objection. Form

3 A That -- that is fair.

4 Q Okay.

5 A That is fair.

6 Q And do you remember -- and do you
7 remember approximately when? Like would -- would
8 a student be enrolled before they received the
9 student handbook?

10 A I -- I would think it would be a very --
11 it would be after they had passed the exam.

12 Q Uh-huh.

13 A So, yes. I mean, they -- were they
14 enrolled? Not yet, but after they passed the
15 exam. It wasn't used --

16 Q Okay.

17 A -- for enrollment, and it wasn't used to
18 -- to either encourage or discourage enrollment.

19 Q Now, when would the -- would the --
20 would the exam you mentioned take place after the
21 interview that's referenced by Deposition --

22 A No.

1 Q -- Deposition Exhibit 4?

2 A Oh. The exam would take place before
3 the interview.

4 Q Okay. Okay.

5 A So what would happen is, they would come
6 to me, I would give them a tour, I would encourage
7 them to apply, I would answer all of their
8 questions as best I could answer them. Then they
9 would get all of their paperwork in, then they
10 would be contacted for testing, and we did testing
11 in groups. Once we knew who passed the exam and
12 who didn't pass the exam, or who we could work
13 with academically because sometimes they were
14 close; right? Then interviews would be scheduled.

15 Q Just a minute ago, you mentioned that
16 the Parent Student Handbook is not used to either
17 encourage or -- or discourage potential students
18 to apply to Bethel Christian Academy. Why would
19 the school want to discourage potential students
20 from applying to --

21 A They didn't.

22 Q -- Bethel Christian Academy?

1 A They didn't. They didn't. I mean, if
2 you passed the exam, you were in.

3 Q Right.

4 A As long as you wanted the slot.

5 Q But I heard you say that marketing
6 materials like -- well, if this Parent Student
7 Handbook was a marketing material, it would not be
8 used to encourage or discourage. Why -- why did
9 you use that phrase, encourage or discourage?

10 A Well, because it was further down the
11 process. It wasn't -- it -- it wasn't part of
12 enrollment. I mean, it wasn't part of -- yeah, it
13 -- it wasn't part of the enrollment process as far
14 as getting students to come to the school. It was
15 further down the process.

16 Q Sure. So putting the -- the handbook
17 aside, in general, would the enrollment process at
18 Bethel Christian Academy ever attempt to
19 discourage students -- certain students from
20 attempting to apply at the school?

21 A Never. Never.

22 MR. FINE: Okay. Can we go to

1 Deposition Exhibit 5, please?

2 REMOTE TECHNICIAN: Yes. One moment
3 while I get that for you, Counsel. Thank you.

4 Q Ms. Wecker, are you able to see this
5 clearly? This document --

6 A If she could make it just a little bit
7 bigger. There we go. That's good.

8 Q And this is Deposition Exhibit 5. In
9 the left-hand column, there is a title, Student
10 Admissions Record. Do you see that?

11 A I do.

12 Q Okay. Do you recognize -- does this
13 document look familiar to you at all?

14 A I don't believe this document existed
15 when I was there.

16 Q Okay. What do you believe this document
17 is?

18 A It's just a -- I mean, we had a document
19 similar. It's just a checklist of all of the
20 pieces of information that need to be in a
21 student's file, is what it looks like.

22 Q Uh-huh.

1 A It's just -- just fancier. Our wasn't
2 this fancy.

3 Q So what did you do instead of using this
4 fancy record?

5 A I mean, it was -- I just didn't, like,
6 click things off. I just knew what had to be in
7 there. So I just made it happen. I -- I mean,
8 there may have been a list, but it -- this looks
9 very fancy. And it looks like it's a computerized
10 list, and we probably didn't have a computerized
11 form in those days. It was more, like, a Excel
12 spreadsheet.

13 Q Okay. Excel spreadsheet? What kind of
14 information would be captured in that Excel
15 spreadsheet about the student admissions process?

16 A Well, it looks like it's all of these
17 things; teacher recommendation, previous or
18 current report card. Now, if they were young, we
19 didn't need those things; right?

20 Q Uh-huh.

21 A Because I think up and through third
22 grade, they didn't even need a teacher

1 recommendation. Previous or current report card
2 was important. Because sometimes in the public
3 system, a student will receive an A or B based on
4 their progress, but not based on the fact that
5 they're doing A or B work according to grade
6 level. So that's why it was important for both;
7 right? Emergency contact, that's pretty
8 self-explanatory. I can't see all of it.

9 THE WITNESS: Ryley, could you push it
10 down a little bit for me?

11 A The first three are -- you know, we've
12 talked about already. Health records, birth
13 certificate, this is all the things we have to
14 have for students to be -- to be fully in the
15 school. In other words, you can't start school if
16 we don't have a birth certificate, you can't start
17 school if you haven't had your blood screening;
18 right?

19 Q Got you. In the -- now, the -- you had
20 testified a few minutes ago that you don't -- you
21 -- you did -- you probably didn't use Exhibit
22 Number 5 while you were at school; right? Or you

1 don't recall using it?

2 A It just look a little different, I
3 think, yeah.

4 Q Okay.

5 A But it wasn't a computerized record, I
6 think, is what I'm -- like, but I recognize
7 everything on the list.

8 Q Sure. Now, I'm -- I'm going to ask
9 questions about the document retention system or
10 Excel spreadsheet that you used while you were
11 there at Bethel Christian Academy. Was there a
12 place to enter information about why the student
13 ultimately didn't enroll or decided not to enroll?

14 A Honestly, the only reason a student
15 wouldn't be enrolled is if they chose not to be
16 enrolled or if they failed the exam. There was no
17 other criteria.

18 Q What kind of reasons would a student
19 choose not to attend Bethel Christian Academy?

20 A Perhaps they applied to three school,
21 and we were their second choice.

22 Q And if a --

1 A I can't think of another --

2 Q -- prospective --

3 A -- reason.

4 Q That's fine. Now, if a prospective
5 student had told you that they were attending a
6 different school because they applied to several,
7 would that be -- will that -- that information
8 captured anywhere when you were the director of
9 enrollment?

10 A Probably not. We just put it in a
11 separate file and sent the application with them.
12 It didn't happen all that often. It's not like --
13 it's not like a college. Can I -- can I just say
14 it's not like a college where you're getting, you
15 know, forty-thousand requests for enrollment. It
16 doesn't -- it doesn't work like that in a small
17 private school.

18 Q Uh-huh. Okay.

19 A Right?

20 Q Yeah. Well, I didn't --

21 A It's like --

22 Q -- attend private school either. So

1 that's --

2 A -- if --

3 Q -- okay --

4 A You know, if -- if a student applied,
5 we're going to do everything in our power to get
6 them enrolled in the school.

7 Q The files that you kept for student
8 enrollment, whether the checklist for ultimate
9 acceptance or this -- the separate file you -- you
10 referenced for students who did not attend, do you
11 remember where you maintained that, in -- in the
12 school or in your office at -- at -- at Bethel
13 Christian Academy?

14 A I -- once it left my office, somebody
15 else maintained it. Probably Claire. She was
16 very good at file-keeping.

17 Q Okay. What was her -- so did Claire
18 maintain the school's filing system?

19 A She didn't, but she had a secretary that
20 probably did.

21 Q Okay. Do you recall that secretary's
22 name by any chance?

1 A There were several over the years.

2 Yeah.

3 Q No problem. Earlier, I remember, my
4 recollection was that you answered every question
5 a prospective student had. Is that a fair
6 summation of what you said earlier?

7 A Yes.

8 Q Okay. What kind of students -- oh, I'm
9 sorry. What kind of questions would you get about
10 Bethel or about the school?

11 A They could be anything. You know, they
12 could be academic questions. They could be
13 family-oriented questions. They could be
14 daycare-oriented questions, before and aftercare.
15 You know, what's -- what's the academics like? I
16 mean, I -- I tried to make sure that they saw --
17 they saw what the school was like before they put
18 their application in. So the -- I would give them
19 a tour. If -- if a student was, like, going into
20 kindergarten or above, I would even let them spend
21 a day in the life; right? So there weren't any
22 surprises when they put their application in.

1 Q Did you ever receive -- did you ever
2 answer a question about -- Bethel's religious
3 views or religious -- religious denomination?

4 A Sure.

5 Q And what kind of questions would you get
6 about that?

7 A Well, I mean, we've had -- over the
8 years, we've had students from all backgrounds,
9 not just secular backgrounds. But, you know,
10 we've had Mormon students. We've had Catholic
11 students. We've had some really interesting sects
12 of Christianity. We even had a Muslim student;
13 right? So, you know, they would ask questions,
14 and we would talk about it. And if they were
15 comfortable, they were comfortable; right?

16 Q In -- in your time, over twenty years
17 with Bethel Christian Academy, did you ever
18 receive a question from a prospective student or
19 their parents about the statement of
20 nondiscrimination in the -- in the handbook?

21 A No. Not once that I recall.

22 Q Do you recall ever receiving a question

1 about the admissions policy in the Bethel student
2 handbook?

3 A No. They never -- they didn't -- it
4 wasn't until recent years. I mean, maybe in the
5 last few years we were there, the handbook lived
6 online. But when parents want to enroll their
7 child in the school, they want to know if -- if --
8 they're coming with their -- with their cup empty.
9 And they want us to fill it. They're not coming
10 the other way; makes sense? They want acceptance
11 in the school, or --

12 Q Uh-huh.

13 A -- they want acceptance to a private
14 school.

15 Q Sure. But couldn't a student who is
16 interested -- I'm sorry, a student or a parent who
17 is interested in attending the school be
18 interested in the school while at the same time
19 have concern about the admissions policy or the
20 statement of nondiscrimination?

21 MR. TUCKER: Objection. Form.

22 A I can't answer for how parents would

1 react.

2 Q Well -- well, your answer --

3 A I -- I can't.

4 Q -- your -- your answer suggested to me
5 that you seem to think that enrollment at Bethel
6 Christian Academy and questions or issues with the
7 admissions policy are -- inconsistent, like you
8 wouldn't -- you wouldn't if you wanted -- if you
9 -- you wouldn't attend if you -- if you had
10 questions about that admissions policy; is that
11 right?

12 A I don't -- I don't think it goes to the
13 admissions policy. I don't -- I don't think
14 that's what it goes to. I think it's -- it's a
15 broader reach than that. In other words, I got
16 from our conversation that you are Jewish; right?
17 By heritage or religion, you might not want to put
18 your child in a Christian school. She wouldn't be
19 looking there. You'd be looking at Jewish
20 schools.

21 Q Uh-huh.

22 A Right? It's that reach that I'm -- that

1 I would say.

2 MR. FINE: Okay. Thank you. I'm done
3 with exhibit -- with this exhibit, Ryley.

4 Q Focusing on your year 2016-2017, where
5 you were the assistant principal of the middle
6 school. So let's talk a little more about your --
7 so was it -- was discipline part of your role as
8 -- as assistant principal?

9 A Yes, it was.

10 Q Discipline -- okay. What about -- what
11 other kinds of areas were you in charge of?

12 A A teacher oversight, morning devotion,
13 staffing the lunch room. I also happened to coach
14 kids on the National Geography Bee and the
15 National Spelling Bee. Side-job. And -- and then
16 I did all the finance stuff. So I didn't drop
17 that when I moved over. And then of course --

18 Q My wife is --

19 A -- enrollment. But that year, I only
20 did enrollment for middle school; right? I -- I
21 didn't do -- I didn't cast division for the rest
22 of the school.

1 Q Okay. We talked about discipline,
2 teacher oversight, morning devotional, staffing
3 the lunchroom, you helped with Spelling Bee and
4 geography. I was going to add my wife is a former
5 Spelling Bee champ. So I've always very
6 impressed.

7 Any other roles that you had as
8 assistant vice principal that role that year --

9 A I'm sorry, say --

10 Q -- that you can think of?

11 A -- that again.

12 Q So I'm just trying to think of all the
13 roles that assistant -- that principal has of the
14 middle school in that year.

15 A Oh, I'm sure there was a job
16 description. But, you know, it's been a few
17 years, so I'm kind of like, what else did I do? I
18 was busy --

19 Q Yeah.

20 A -- from morning until night.

21 Q Yeah.

22 A I can tell you that.

1 Q So what kind -- let's talk about
2 discipline first. What kind of discipline issues
3 do you recall having in 2016, 2017 as assistant --
4 as assistant principal?

5 A Mostly, middle school boys, not really
6 being on board with following the rules; right?
7 You know, hormones being what they are. There was
8 a lot of young ladies who did a lot of crying,
9 hormones being what they are. It's a special
10 calling, being a middle school principal or
11 assistant principal, yeah.

12 Q So you mentioned the boys were not
13 following the rules or not want to follow the
14 rules?

15 A Oh, it's not even about not following
16 the rules, but I probably stated that wrong. It's
17 more that -- you know, we had a few boys that had
18 attitude, you know, and they'd give the teacher
19 attitude. This is a very structured school;
20 right? And so kids had -- there was an
21 expectation of respect for adults. There was an
22 expectation of no language. There was even an

1 expectation of don't use a fidget -- fidget
2 spinner. Remember when those were popular? Yeah,
3 that was my year. So I -- you know, that's the
4 kind of policing that you did. I wasn't fond of
5 being an assistant principal of the middle school,
6 I would say that, because I don't like to be bad
7 cop.

8 Q Okay. Did you ever discipline that year
9 any students in -- with regards to sexual-related
10 activity or sexual conduct?

11 A Zero.

12 Q Zero?

13 A Yeah.

14 Q Okay.

15 A It wasn't --

16 Q I thought I was interrupting you.

17 A Maybe I'm blind to it. I don't know.

18 Q Yeah.

19 A I didn't see it. I didn't -- I didn't
20 worry about it.

21 Q What about in prior years other than
22 2016-2017, have you ever disciplined student for

1 sexually inappropriate behavior?

2 A No. Never.

3 Q Do you recall during your time at Bethel
4 Christian Academy, any other staff member, or
5 teacher, or principal having to discipline a
6 student or students for sexually inappropriate
7 behavior?

8 A No. It's kind of like 1950 there, you
9 know, so no. That's -- that was probably the
10 least of our worries.

11 Q Okay. So that was discipline. Tell me
12 about a little bit about teacher oversight.
13 What's involved with teacher oversight as a -- as
14 a principal at Bethel Christian Academy Middle
15 School.

16 A You know, just chatting with the
17 teachers once every couple of weeks, making sure
18 that they don't have any issues. I mean, if
19 somebody had an issue, they would usually bring it
20 to you. If a parent had an issue with a teacher,
21 they would bring it to me. And then I, you know,
22 talked to the teacher. And then I get the parent

1 and the teacher together. That's kind of the way
2 things went, yeah.

3 Q As assistant principal, do you have any
4 role with the curriculum?

5 A I did not. The curriculum was set. I
6 walked into that role. And so no, I didn't have
7 anything to do with curriculum.

8 Q So you walked into that role?

9 A Remember --

10 Q Normally --

11 A -- I had been there --

12 Q -- you had --

13 A -- Claire --

14 Q Yes. Yes. So --

15 A And Claire --

16 Q -- so if -- if --

17 A -- have been the -- go ahead.

18 Q You had stepped in that role. Please
19 remind me. Go ahead.

20 A I -- I had always been down at the
21 preschool through elementary; right? We opened a
22 third campus that year. She needed three people

1 in oversight. And so Claire was at the elementary
2 school. And I can't even remember who was at the
3 -- or maybe Claire was at Campus 3. Brenonda was
4 mostly up at the elementary school, and I was at
5 the -- at the middle school.

6 Q Okay. So normally, if you had stepped
7 into the assistant principal role at Bethel Middle
8 School on a permanent basis, would the assistant
9 principal ordinarily be in charge of the
10 curriculum?

11 A I would say probably, yes. Yeah. I
12 mean, there's a curriculum review process that
13 they do every few years. But yes, I was just not
14 involved in that.

15 Q Were you involved in previous years in
16 the curriculum review process?

17 A Way back, but not -- not after Alice got
18 there. It was a whole different structure before
19 Alice worked there.

20 Q Do you know -- so I'm curious about --
21 and so I -- I did not attend private school. So
22 I'm curious about how a private school teaches

1 both secular and nonsecular subjects. So is that
2 -- is there a separate class for religious
3 studies, and then -- then mathematics, English?
4 How -- how does -- how does curriculum work in a
5 -- in a private Christian -- private religious
6 school?

7 A Well, in -- in this school, I can't
8 answer for everyone because I've only ever worked
9 in one; right? It was a Bible curriculum. It
10 wasn't a -- it wasn't -- like, in Catholic school,
11 they have what's called religious studies, I
12 think. And -- but it -- at Bethel, it was Bible.
13 So they would study the word. That's what they
14 would do. And every year the curriculum builds
15 upon itself. But it's -- from -- from sixth to
16 eighth grade, they read through the Bible from
17 beginning to end.

18 Q So it sounds like religion was
19 integrated into the curriculum rather than being,
20 like, a separate area of study. Is that a fair
21 statement?

22 A Well, Bible was -- Bible was a separate

1 class. Now, that doesn't mean that something came
2 up in science about evolution, and they said, oh,
3 yeah, evolution, you know. You know, they taught
4 from a creation science point of view. The other
5 classes, you know, it wasn't -- it wasn't left
6 behind, but it's like -- it's like asking you to
7 leave your wedding ring behind --

8 Q Yes.

9 A -- right? It's just --

10 Q Right.

11 A -- part of who you are.

12 Q Yeah.

13 A Your breadth; right? Yeah.

14 Q So structurally, religion or Bible study
15 was a separate class. But in -- in actuality,
16 there was some -- you know, it -- like you said,
17 there was an overlap because of the nature of the
18 school; is that fair?

19 A Because of -- because of -- yes, I would
20 say there was overlap.

21 Q Okay.

22 A But it wasn't --

1 Q Now, I'm talking --

2 A -- blatant; right? It wasn't like --
3 they weren't graded on it. It's just if you have
4 Christian teachers, they are going to come out it
5 from a Christian review. If a Jewish issue, they
6 should come out from a Jewish review, do you have
7 a Muslim teacher. That's just life; right? Yeah.

8 Q I understand. I understand. So other
9 than Bible -- Bible study where they read -- I'm
10 not talking about -- let's talk about middle
11 school specifically at Bethel Christian Academy.
12 So there was Bible study. Was there any other
13 religious classes like Bible study, or was that
14 they're -- was that -- is that students one
15 designated religious class, or --

16 A Yeah. And the -- and again, it's --
17 it's -- it's studying the word as academic process
18 --

19 Q Right.

20 A -- not -- you know, it's studying
21 indoctrination because we had kids across all
22 disciplines. So -- but -- but you feel it's

1 important to have them read the Bible.

2 Q Uh-huh.

3 A You're right, so --

4 Q So would the biblical definition or the
5 biblical interpretation of marriage come up in the
6 middle school classes about Bible study?

7 A I wasn't in the classes. I couldn't
8 tell you what the Bible teacher told them or
9 didn't tell them.

10 Q Okay. What about the morning --

11 A I don't -- they study Paul's missionary
12 journeys. I don't think it comes up in that.
13 Like, eighth grade, that whole year is about that
14 part of the new testament and where Paul went and
15 why that went -- you know, so it's like it's not
16 the focus for sure. It doesn't have -- it's not
17 the focus.

18 Q Okay. What is the morning devotional --
19 what -- what is a morning devotional?

20 A Where the teachers get together and pray
21 for the students before the students arrive. And
22 there's usually a short Bible lesson. And we

1 talked about the day and what -- you know, it's --
2 it's the Christian version of morning meeting.

3 Q Okay.

4 A Right? I'm sure you have a morning
5 meeting at the law firm; right? Or something like
6 that. It's the same, which it's not -- there's no
7 --

8 Q Is it fair --

9 A -- it's no mystery to it.

10 Q Yeah. Is it fair to say that no
11 students attended the morning devotional?

12 A No students attend the morning
13 devotional.

14 Q Okay.

15 A They have their own time; right? We
16 would open the day, all the students together, and
17 they would pledge -- pledge allegiance to abide to
18 the United States -- you know.

19 Q Yeah. I remember --

20 A Yeah.

21 Q -- that. That's universal, I think.

22 A And we talked about they're --

1 Q You --

2 A -- day, but that was after the teachers
3 had already talked about theirs; right? Yeah.

4 Q So you used the word their own time. Is
5 that like homeroom? Is that -- what is -- what
6 would you call that?

7 A It was before they went to homeroom. It
8 was just the, you know, time to -- for everybody
9 to gather. They say the pledge together. Some --
10 a student -- and, you know, we would select a
11 student to pray for the rest of the students and
12 then we would send them to homeroom. It's where
13 they signed in in the morning. It just made it
14 easier. It's not a large -- the middle school was
15 not a large school. I think even with fifth grade
16 because it was -- in then stage, it was fifth
17 through middle school. And it was, I don't know,
18 sixty-five students. It wasn't a ton of students;
19 right?

20 Q So after the morning devotional, the
21 students' own time -- it -- it sounds like an
22 assembly, like a school wide assembly; is that

1 fair?

2 A Yeah. Like a student assembly, uh-huh.

3 Q Okay.

4 A It lasts five-minutes and then they go
5 to homeroom.

6 Q Okay. So student assembly. So there's
7 a student reading the Pledge of Allegiance; right?
8 What else do you remember? Like, what else is the
9 order of activities, if you remember?

10 A Well, then, like I said, we'd -- we'd
11 ask a student to -- to pray for the rest of the
12 students. We -- and then we would talk about like
13 if there was a special event that day or if there
14 was chapel, though -- you know, if they're -- you
15 know, I mean, whatever was going on, we would talk
16 about it there because it was the one time we have
17 all the students together. Because even at lunch,
18 fifth grade to middle school ate separately.

19 Q At Bethel Christian Academy was there --
20 or in -- in -- is there a standard prayer that'd
21 be -- that will be read for the rest of the
22 students, or is it kind of --

1 A Free-flowing.

2 Q So students --

3 A Yeah.

4 Q Who -- who would give the prayer?

5 A We would just select a student for that
6 day.

7 Q And that student could --

8 A And we would move it around. I tried to
9 always choose a different student, you know. So
10 everybody got an opportunity to learn how to pray
11 in front of people, public speaking, you know. If
12 a student didn't want to, it's fine. I just move
13 onto the next one. There -- it wasn't -- there
14 was no pressure. More -- you know, there's fifty
15 kids going, me, me.

16 Q Do you recall any other prayers that the
17 students gave over the years?

18 A No, they're usually pretty self-serving.
19 There we go. Help us all do well with our tests
20 and make sure lunch is good. Amen. You know,
21 common human behavior.

22 Q Middle school is no less.

1 A Yeah.

2 Q Do you ever recall a prayer about
3 homosexuality?

4 A No.

5 Q Okay.

6 A No. I -- I mean, I think you really
7 have to understand it's -- it's not like that.
8 You know, my son had a daughter in -- or a girl in
9 his class that had two moms. It was no big deal.
10 But he's 33 years old, by the way, this is not a
11 new thing. You know, it's just new because we
12 took money from the state of Maryland. That's
13 all. But we don't -- there was no discrimination
14 that happened. I can name fifteen kids who
15 graduated from there that I know that are living a
16 homosexual lifestyle. Doesn't affect anything.
17 Honestly, they're kids at that point. They're
18 trying to figure it out, you know. And we're
19 trying to love them and respect them and give them
20 space.

21 MR. FINE: So it's been about another
22 hour since our last break. So I'm going to call

1 another quick break. I could use as little as
2 five, but it goes as long as ten. What do you --
3 you -- what -- what do you -- what works for you?

4 THE WITNESS: Five is fine. I really
5 want to get home --

6 MR. FINE: Okay.

7 THE WITNESS: -- before rush hour.

8 MR. FINE: Yeah. Okay. That's --
9 that's why --

10 THE WITNESS: And it's 4:15.

11 MR. FINE: -- I'm going to take a quick
12 one. So -- so --

13 THE REPORTER: 4:13.

14 MR. FINE: 4:13? Let's go back on the
15 record at 4:18.

16 (Whereupon, a recess was taken.)

17 THE REPORTER: 4:23 p.m. And we are
18 back on record.

19 BY MR. FINE:

20 Q Welcome back, Ms. Wecker. I just wanted
21 to ask a follow up question about admissions at --
22 into Bethel admission -- I'm sorry, Bethel

1 Christian Academy. Are you aware of any
2 prospective student who applied to Bethel
3 Christian Academy who was homosexual?

4 A That knew it at the time? Probably not,
5 but I know of several who are -- who weren't and
6 then, you know, whether high school or after high
7 school --

8 Q Okay. You -- you had mentioned the
9 fifteen kids. That was the number that you had
10 said.

11 A I mean -- yeah. I mean, if they --
12 they're listed in my head, if that's what you're
13 asking. But for example, in my -- my fourth
14 child, my second daughter's class, there was a
15 young man who went from our school then eventually
16 to another Christian school. And he came out when
17 he was there. There was a young man in one of my
18 son's classes that pretty sure he was -- I can't
19 say hundred-percent, but, you know, it's like I'm
20 not just an administrator in a Christian school.
21 I'm also a mom; right? I have these kids in my
22 home, you know. I --

1 Q You -- you mentioned --

2 A -- I don't --

3 Q -- someone is --

4 A -- have judgment on anyone for -- right?

5 Q You -- you mentioned someone's in your
6 son -- you mentioned someone in your son's
7 classes. Just so I -- I don't need to know your
8 son's --

9 A Go ahead.

10 Q -- name, but which -- was -- was --
11 which -- was he one through five, like which --
12 which child was this?

13 A My middle -- my middle child. In his
14 class, there was a girl who had two moms.

15 Q Okay.

16 A And this was -- my son is 33. And she
17 was there from kindergarten. I think she
18 graduated from there.

19 Q Uh-huh.

20 A It wasn't like -- it wasn't a secret;
21 right? And this was before it was a big political
22 thing; right? We just love people, all people,

1 not the ones that are convenient. I don't believe
2 that's what Jesus would do.

3 Q Are you aware of any -- so I asked you
4 about prospective students who were openly
5 homosexual. Are you aware of any students other
6 than the ones you mentioned who were enrolled
7 students and openly homosexual?

8 A Openly homosexual is a really
9 interesting terminology for a school that only
10 goes through eighth grade. I don't think kids are
11 aware, most of them. They are just coming into
12 their bodies; right? They don't -- they don't
13 think -- at least not -- most -- I don't know.
14 They don't necessarily think sexually. We see it
15 before they understand it; right?

16 So no, I'm not aware of any student that
17 was disciplined and kicked out, whatever. That --
18 it just didn't happen. And I was there a long
19 time.

20 Q Yeah. So -- so my question though was:
21 Do you recall enrolled student who was openly
22 homosexual while -- while you were working at

1 Bethel Christian Academy?

2 A When you say openly homosexual, I -- you
3 need to give me more clarification. Like ask
4 another child out on the date? You -- you're not
5 allowed to date there; right?

6 Q Someone who asked what is your sexuality
7 would identify is -- is homosexual. I mean,
8 that's -- that's kind of -- that is the definition
9 I was working with.

10 A Oh. I don't think anybody ever asks.
11 Because remember, we define ourselves spiritually.
12 I -- I'm not -- and I'm not trying to be
13 disrespectful, but it's different. I don't -- I
14 -- it doesn't come up in conversation. And I --
15 and I don't think -- and maybe I'm wrong. Because
16 remember, I only worked at the middle school for
17 one -- actually, in the physical building --

18 Q Uh-huh.

19 A -- for one year. Now, that middle
20 school used to be part of the building that I
21 worked in until 2007, maybe. Certainly, no, it
22 was never a question then.

1 Q Uh-huh. The -- your second daughter's
2 -- your second daughter, who you said knew a young
3 man who -- who left and then attended another
4 Christian school. And then -- and then came out
5 and was openly homosexual, and chose to come out
6 while he's attending that -- that other school.
7 Do you have -- do you know why that -- that
8 student didn't come out while he was attending
9 Bethel Christian Academy?

10 A I think because he was young, you know.
11 And he came out at, like, eleventh grade, and he
12 graduated Bethel at eighth grade. Again, you're
13 not, like -- they're not necessarily even aware.

14 Q Does Bethel Christian Academy, that
15 middle school in particular, does it have a school
16 dance?

17 A No.

18 Q Okay.

19 A Up until -- I don't know. I'm going to
20 say fifteen years ago, you didn't dance. You
21 didn't drink. You know, like, it's a pretty
22 straight-laced denomination.

1 Q Uh-huh. Are there other social events
2 for middle schoolers that are -- that are --

3 A There is --

4 Q -- (indiscernible)?

5 A Sure. There is -- they take a trip --
6 they take a trip every year to Sight & Sound, and
7 they can go shopping either before or after the
8 show. And Sight & Sound, if you're not aware, is
9 a Christian theater in Lancaster, Pennsylvania.
10 They don't go to the -- like, you know, several
11 years ago they used to go to amusement parks, but
12 they don't do that anymore. We do have a school
13 carnival every year where we bring amusement rides
14 to us. I'm trying to think.

15 Q Yeah --

16 A You know, they take trips to -- go
17 ahead.

18 Q So -- so in the last -- in recent -- in
19 -- in -- so for instance in 2016, 2017, what --
20 was there a school -- was there a class trip, like
21 you're talking about?

22 A Uh-huh. We went to Sight & Sound. We

1 saw the story --

2 Q Sight & Sound?

3 A -- of Jonah, maybe, or -- I can't
4 remember. Anyway -- and we went shopping. And --
5 and the boys went on one bus, and the girls went
6 on another bus.

7 Q And so wasn't an overnight excursion --
8 it wasn't an overnight excursion?

9 A Oh, no, no. There were never any
10 overnights.

11 Q Okay.

12 A They do a -- they do a day trip, like, a
13 beginning of the year retreat. I think every
14 other year. But it's still -- it's, like, you
15 leave at 6:00 in the morning, and you get back at
16 10:00 at night. You know, there's no overnights.

17 Q You had mentioned --

18 A And that's the typical (indiscernible)

19 Q No. I'm sorry, that -- thank you. I
20 appreciate that. You had mentioned your third
21 child had a classmate who had two mothers; is that
22 correct?

1 A Yes, that is correct.

2 Q And -- and you remember what year that
3 was, approximately?

4 A Well, it was for several years. In
5 fact, I -- may be a while ago, I ran into one of
6 the moms, and she told me that her partner passed.

7 Q Uh-huh.

8 A Let me think. My son graduated high
9 school in 2008, which means he graduated middle
10 school in 2004. So I'm going to say it was from,
11 like, '96 to 2003, in that neighborhood.

12 Q Okay. And did you become aware of the
13 student's two -- two mothers as a parent, or did
14 you become aware of that as -- as -- as a school
15 administrator?

16 A You know, it's really hard to remember,
17 honestly. But I'm going to say probably both. I
18 know they came to parent-teacher conferences
19 together. And I mean, I'm in the front of the
20 building, so I see everybody that comes in.

21 But then also -- you know, you're
22 friendly with all of the kids in your child's

1 classroom; right? So I -- I think it was both
2 ways. I don't think it was one way or another.
3 The lines get a little --

4 Q Okay.

5 A -- blurry when you -- when you work
6 there.

7 Q I can understand that.

8 MR. FINE: Ryley, I believe you had
9 Exhibit 9A ready to go.

10 REMOTE TECHNICIAN: Yes.

11 MR. FINE: Okay. Could you pull that
12 up, please?

13 REMOTE TECHNICIAN: One moment, please.
14 Thank you.

15 MR. FINE: So, Ryley, there is a 9 and
16 there's a 9A. Do you see 9A in there by any
17 chance?

18 REMOTE TECHNICIAN: One moment while I
19 got that for you. Let me see.

20 MR. FINE: Sure. Thank you.

21 REMOTE TECHNICIAN: I don't see a 9A. I
22 do see a 6 and a 6A.

1 MR. FINE: Okay. Could you pull up 9
2 again, and we'll see if --

3 Q Okay. Ms. Wecker, are you able to see
4 this letter dated October 11, 2017?

5 A I can see it. There you go. Uh-huh.

6 Q Okay. So it's from Matthew Gallagher to
7 -- it's addressed to -- to BOOST-eligible schools.
8 Do you recall receiving this letter?

9 A I -- I don't. Mostly because I don't
10 recall somebody by the name of Matthew Gallagher.

11 Q Okay.

12 A I recall receiving a --

13 Q So --

14 A -- letter like this. And I -- I mean --

15 Q So that --

16 A -- I'm aware of -- oh, go ahead. I am
17 aware that -- and I was aware that you couldn't
18 discriminate based on sexual orientation. If
19 that's what you're asking, yes.

20 Q Well, I'm going to ask several things.
21 But if we had 9A available, 9A is a list of e-mail
22 recipients. And one of the e-mail recipients is

1 patti.wecker -- I'm missing it now -- @teambethel.

2 That's weird.

3 A Yes, that's me. So I did receive it.

4 Q Yeah. So --

5 A Okay.

6 Q -- you receive -- okay. But did -- but
7 as you -- but looking at this document, do you
8 recall the specific document?

9 A I don't recall this specific --

10 Q Okay.

11 A -- one, no. But I mean, I -- I -- it's
12 familiar. I got it three years in a row.

13 Q Sure. What were your -- what was -- do
14 you remember your reaction to receiving a letter
15 or the general news about MSDE and BOOST doing a
16 handbook review?

17 A I -- I don't recall any specific
18 reaction. I just recall thinking it was okay
19 because we didn't discriminate.

20 MR. FINE: Okay. Now, it's slightly out
21 of order. Could you bring up, Ryley, Exhibit 8,
22 please?

1 REMOTE TECHNICIAN: Yes. One moment,
2 please, while I got that for you, Counsel.

3 MR. FINE: Sure.

4 Q All right. And this is Exhibit 8. This
5 is an e-mail from BOOST to undisclosed recipients
6 with several blind carbon copies. And I'll
7 represent to you that your Bethel e-mail address
8 is in there somewhere.

9 A Sure. That's fine. I'm --

10 Q Sure.

11 A -- and I'm sure I signed off on the
12 assurance. You don't have to -- you know, I'll --

13 Q Yeah. Okay.

14 A -- I'll tell you I did it.

15 Q This -- this -- this is an e-mail
16 distributing a notification about school
17 assurances.

18 MR. FINE: Ryley, could you go to the
19 bottom right-hand corner there is a stamp that
20 says Bethel Defendants. And could you go to the
21 page that says Bethel Defendants 3138.004?

22 REMOTE TECHNICIAN: One moment, please.

1 MR. FINE: Sure.

2 REMOTE TECHNICIAN: In the lower
3 right-hand corner; correct?

4 MR. FINE: Yeah. It's -- it's -- you
5 know, let me just count the pages. That might be
6 easier. That's the one. And could you zoom into
7 the -- the topic that's where -- the header that
8 says school assurances. It's about halfway down.

9 Q Ms. --

10 REMOTE TECHNICIAN: Oh.

11 Q -- Ms. Wecker, are you able to see that?
12 I don't think so.

13 REMOTE TECHNICIAN: Sorry about that.

14 A Okay. That's better. Yeah. No, that's
15 all right.

16 Q Okay.

17 A 2000 -- June 15th, received (inaudible)
18 must submit to be considered for the renewal of
19 the award.

20 Q So in particular, I'm -- I just -- I
21 want you to read and become familiar with the
22 school assurances section that says to become

1 fully eligible to participate. School will need
2 to certify an assurance form. Do you see where
3 I'm reading?

4 A 2000 -- May 2017 -- school officials --
5 agree or do not agree with assurances. Yes, I see
6 that.

7 Q Okay. So the -- this e-mail is -- is
8 communicating that fact.

9 MR. FINE: And then if you would scroll,
10 Ryley, another page down, please --

11 A And when --

12 MR. FINE: -- please.

13 A -- when -- oh.

14 Q I'm sorry. What was that, Ms. Wecker?

15 A No, it's all right.

16 Q Okay.

17 A I was just going to say when was that
18 e-mail sent?

19 Q Sure. It was -- it was sent May 17th --
20 I'm sorry, May 11th, 2017.

21 A May 11? Okay.

22 Q So a month before your June slide into

1 retirement; right?

2 A Right. Uh-huh.

3 Q Okay. So -- and you said that one of
4 your jobs as business manager or director of
5 enrollment was to sign these assurances each year;
6 is that right?

7 A If my name is on it, then I signed it.
8 I don't remember signing it this year, but --

9 Q You --

10 A I don't --

11 Q -- you --

12 A -- I don't remember a --

13 Q -- your name is not --

14 A -- lot of things from that year
15 apparently.

16 Q -- your name is not on this particular
17 document, but this is a copy of the language that
18 would've been in the assurance that you signed.

19 A Oh, I got you. Okay. Yeah.

20 Q That -- does -- does this -- the -- the
21 -- does the language in this assurance look
22 familiar at all to you?

1 A Uh-huh.

2 Q Okay. And would you have reviewed and
3 read this before signing off on it?

4 A Quite possibly, yes.

5 Q Okay. And -- and can you see it's
6 paragraph 1, Nondiscrimination? And then there's
7 a paragraph A below that. Are you able to see
8 that?

9 A I see one nondiscrimination, and I see
10 the whole paragraph. Yes, sir.

11 Q Okay. And do you see the third -- the
12 third sentence in that paragraph A, that says, The
13 school does not discriminate in student admissions
14 on the basis of race?

15 A Yes.

16 Q Okay. So you do remember --

17 A We didn't.

18 Q -- reading this -- okay.

19 A Uh-huh.

20 Q All right. So you -- you had no reason
21 to believe that the school was discriminating on
22 the basis of race, color, national origin, or

1 sexual orientation?

2 A No.

3 MR. FINE: Okay. Could you pull up
4 Exhibit 10, please, Ryley?

5 REMOTE TECHNICIAN: Of course, Counsel.
6 Give me just one moment to get that for you.

7 Let me know where you'd like me to zoom,
8 Counsel.

9 MR. FINE: Sure. Maybe just zoom in so
10 we can clearly see the dates and the addressee.

11 Q Okay. Ms. Wecker, this is Deposition
12 Exhibit 10. It's a March 5th, 2018, letter from
13 Monica Kearns at the MSDE to Ms. Dant. Have you
14 seen this letter before?

15 A No.

16 Q Okay.

17 A I was gone by this time.

18 Q Okay. I remember you telling me that.
19 Essentially, I'll -- I'll paraphrase, but I'll
20 represent to you that this letter says that the
21 MSDE staff had concerns about Bethel's handbook
22 and whether it conflicted with the BOOST's law

1 requirement about nondiscrimination on the basis
2 of sexual orientation.

3 Do you recall ever receiving news or
4 word that Bethel was -- it's handbook -- that
5 Bethel's handbook was being reviewed for potential
6 non -- for potential noncompliance with the BOOST
7 law?

8 A No. No one ever informed me. It was
9 maybe last year somebody said something about
10 Bethel and BOOST, and -- you know, I was gone.

11 Q Uh-huh.

12 A So --

13 Q Okay. Have you made many -- have you
14 maintained many contacts at the school since
15 you've left?

16 A Excuse me. There is one woman that I'm
17 still very friendly with and another that has
18 since come to work for me. But that's about it.

19 Q Do you -- why did you leave employment
20 at Bethel Christian Academy at the end of 2017?

21 A Well, my family, you know, we own
22 restaurants, and my family was opening a new very

1 large restaurant. And I had -- I had really felt
2 a while before that, that I wanted to go, and my
3 husband kept saying, hang in there because I want
4 you to work at the restaurant.

5 And so when the time was right, I left.
6 And as with many things I -- you know, it's not
7 like -- I don't have any ill feelings. I just
8 didn't -- I don't look back. I look forward. I
9 --

10 Q Other than wanting to work in your
11 family's restaurant business, were there any other
12 reasons that motivated you or encouraged you to
13 leave Bethel Christian Academy at the end of 2017?

14 A I just knew my time was up. You know,
15 everybody gets to a place in a -- in a position
16 where they're like -- I didn't -- honestly, I'm --
17 like I said before, I didn't like being the
18 assistant principal at the middle school.

19 Q Uh-huh.

20 A I was in it for one year, and I thought,
21 no. It's not -- it really wasn't for me. I like
22 supervising people. I don't like necessarily

1 being bad cop all the time with children. It's
2 just not -- it's not a joyous job, and life's too
3 short.

4 Q Yes. After the MSDE and BOOST stopped
5 providing scholarships -- BOOST scholarships to
6 students attending Bethel Christian Academy, are
7 you aware of any students who had to leave the
8 school because of that?

9 A I did hear that several had to leave,
10 yes. And, you know, I don't know if anyone has
11 said this, but Bethel provided most of the funding
12 for these kids, internally. So these families
13 didn't have to pay but 100 or \$200 for school. It
14 was the difference between those kids getting a
15 private education or getting shoved to the back of
16 the classroom.

17 So now they're back getting shoved to
18 the back of the classroom. And I feel very
19 strongly about that. Those parents pay taxes.
20 And they're --

21 Q So -- and you --

22 A -- they're getting the short end of the

1 stick.

2 Q And so you heard --

3 A I'm sorry. I --

4 Q -- of -- no. No, no. That's -- that's
5 -- that's -- that's -- that's helpful. So you
6 heard of students who had to leave because of the
7 removal of the -- of the scholarships? That was
8 my question, and I think your answer was yes, you
9 had heard of --

10 A Afford the whole thing. So you have to
11 then shrink your scholarship pool, which then when
12 those students leave, it shrinks your pool even
13 more; right? Yeah.

14 Q Who did -- who did you hear that from
15 that students had to leave?

16 A My -- my friend that was there. Yes, my
17 friend that was there. She came for breakfast one
18 morning, and we talked about it.

19 Q Do you recall any of the students who
20 had to leave? Their names?

21 A I have no idea, no.

22 Q Do you recall how many students had to

1 leave because of the removal --

2 A I don't know.

3 Q -- of those funding?

4 A I know there were forty-four. There
5 were four -- the -- the year that I -- no -- not
6 2017, 2018, but the year before there were
7 forty-four students on BOOST.

8 Q Earlier in the deposition, you had
9 mentioned that you -- you, either personally or --
10 or -- Bethel, I can't remember which, advocated
11 for the creation of the BOOST Scholarship Program;
12 is that right?

13 A That's correct.

14 Q Okay. And you said you spoke to
15 politicians?

16 A Yes.

17 Q Did -- do you remember which politicians
18 you spoke to?

19 A I remember talking to Guy Guzzone. I
20 remember talking to Eric Ebersole. I know I
21 talked to a bunch of them. Those were the only
22 two that stand out because I -- they're in my

1 district; right?

2 Q Right. After the creation of the BOOST
3 Program, did you continue to advocate politically
4 for the program or contact politicians?

5 A No.

6 Q No? Okay. If a student had a problem
7 or an issue, or wanted to talk to somebody about
8 something that was bothering that student, did
9 Bethel have a counseling program?

10 A Well, they could talk to a teacher.
11 They could talk to an administrator. They could
12 talk to a pastor. You know, the -- the -- like
13 the middle school has -- has its own pastor. And
14 so sometimes pastors act as counselors.

15 Q Do you remember who -- do you know who
16 in 2016, 2017, who the middle school pastor was?

17 MR. TUCKER: Objection. Form.

18 A I think it was a -- I'm sorry, what? I
19 think it was Mandy Monson.

20 Q And could you spell that, please?

21 A I don't know.

22 Q Well, could you just say --

1 A M-O-N-S-O-N.

2 Q -- the name a little slower for me?

3 A Oh, sure.

4 Q Monson?

5 A Mandy Monson, M-O-N-S-O-N, I think.

6 Q Okay. Do you know how long she served
7 in that role for?

8 A I don't.

9 Q Okay.

10 A But I think -- she may still be there.
11 I don't know.

12 Q I'm just going to look through my notes
13 right now to see if there's anything else I want
14 to ask you about. But I think I'm close to
15 finish, so thank you. Rather than going on a
16 break, I think I can get this done pretty quickly
17 here.

18 What did you do to prepare for your
19 deposition today, Ms. Wecker? Other than talk to
20 your attorney?

21 A Prayed. And I prayed. I have my
22 devotion. Should I share it with you? Slow to

1 --

2 Q Please.

3 A -- speak, basically.

4 Q Well, if you -- if you want to share
5 with me off the record at the end, you're pretty
6 much more than welcome to. You mentioned you're
7 -- you're not a member of the Bethel Religious
8 Institution. Are you a member of any formal
9 religious institution?

10 A I am a member of Ellicott City Assembly
11 of God. Although I haven't been in over a year,
12 just like the rest of us.

13 Q That's right. They've been doing a
14 video or Internet?

15 A Well, and I -- I'll confess I -- I
16 haven't even watched them on TV because my
17 daughter is a pastor out in -- a worship pastor
18 out in California. So I generally tune into her
19 on Sunday morning.

20 Q That's great.

21 A It's very comforting to see her. I
22 don't -- you know, before COVID I never get to see

1 her lead worship or do her thing, so to speak. So

2 --

3 Q Yeah.

4 A -- yeah.

5 Q Thank you for sharing that.

6 A Uh-huh.

7 MR. FINE: Yeah. I think -- I think
8 that's all the questions I have. So with that,
9 I'm going to pass you off to your attorneys to see
10 if they have any questions.

11 MR. TUCKER: I think I just have a few
12 questions. You -- are you still good?

13 MR. FINE: Oh, I'm sorry, I don't --
14 before you start, Ryley, could you take down the
15 exhibit because it's kind of -- when the exhibit's
16 up, it dominates the screen. There we go. Okay.
17 Thank you.

18 REMOTE TECHNICIAN: And also --

19 MR. FINE: Go ahead.

20 THE REPORTER: -- Mr. Tucker, I'm just
21 going to warn you, you're very, very quiet. I
22 recommend that you get close to your mic and speak

1 up a little.

2 MR. TUCKER: Okay. All right. Patty,
3 can you hear me all right?

4 THE WITNESS: I -- I can. There's
5 little feedback, but --

6 THE REPORTER: Yes.

7 THE WITNESS: -- I got it.

8 THE REPORTER: Well, I was going to say
9 there's a little feedback, and it sounds little
10 muffled.

11 MR. TUCKER: Okay. I will try to speak
12 as clear as I can.

13 EXAMINATION BY COUNSEL FOR THE PLAINTIFF
14 BY MR. TUCKER:

15 Q Patty, to your knowledge, has Bethel
16 ever denied admission to a prospective student on
17 the basis of sexual orientation?

18 A No.

19 Q What about with regard to gender
20 identity or expression?

21 A No.

22 Q To your knowledge, has Bethel ever

1 disciplined or expelled a student due to her
2 sexual orientation?

3 A No.

4 Q What about with regard to gender
5 identity or expression?

6 A No.

7 Q In an earlier exchange with Mr. Fine,
8 you mentioned that a student had two moms. Do you
9 recall that exchange?

10 A I do.

11 Q And just for clarity, the -- the student
12 with the two moms attended Bethel Christian
13 Academy; correct?

14 A Yes, they did attend Bethel Christian
15 Academy.

16 MR. TUCKER: I have no further
17 questions.

18 MR. FINE: Okay. And so with that, I'm
19 done. You have the option to read and sign your
20 deposition transcript, and Mr. Tucker might have
21 -- will explain that process to you.

22 MR. TUCKER: Yeah. You can go ahead,

1 and you can send it -- send it over to me. And
2 we'll make sure that she, you know, read and sign.

3 And also, Ms. Kiser, if we need to reach
4 out to you directly or Planet Depo -- I guess, it
5 doesn't matter. I guess I just sent it over. I
6 just want to make sure you got the right contact
7 information.

8 THE REPORTER: Okay. Perfect. Let me
9 check that.

10 MR. FINE: Let's go off the record.

11 THE REPORTER: Oh, okay. 4:54 p.m., and
12 we're off the record.

13 (Off the record at 4:54 PM.)

14

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1 CERTIFICATE OF COURT REPORTER - NOTARY PUBLIC

2 I, Shaylah Kiser, the officer
3 before whom the foregoing deposition was taken, do
4 hereby certify that said proceedings were
5 electronically recorded by me; and that I am
6 neither counsel for, related to, nor employed by
7 any of the parties to this case and have no
8 interest, financial or otherwise, in its outcome.

9 IN WITNESS WHEREOF, I have hereunto set
10 my hand and affixed my notarial seal this 10th day
11 of May, 2021.

12
13 Notary Registration No.: 344282

14 My Commission Expires: 3/31/2024

15
16 *Shaylah L. Kiser*

17 _____
18 SHAYLAH KISER, NOTARY PUBLIC,
19 FOR THE COMMONWEALTH OF VIRGINIA

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CERTIFICATION OF TRANSCRIPT

I, Mary Lide, do hereby certify that the foregoing transcript, to the best of my ability, knowledge, and belief, is a true and correct record of the proceedings; that said proceedings were reduced to typewriting under my supervision; and that I am neither counsel for, related to, nor employed by any of the parties to this case and have no interest, financial or otherwise, in its outcome.



Mary Lide, AAERT-CET
Planet Depos, LLC
5/10/2021

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 Conducted on April 26, 2021

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EXHIBIT 3

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
NORTHERN DIVISION

BETHEL MINISTRIES, INC.,)

Plaintiff,)

DR. KAREN B. SALMON, et al.)

Defendants.)

Case No. 2:19-cv-15

**PLAINTIFF’S FIRST AMENDED ANSWERS TO DEFENDANTS’
FIRST SET OF INTERROGATORIES**

Plaintiff Bethel Christian Ministries, by and through its attorneys and pursuant to Federal Rule of Civil Procedure 33, responds to Defendants’ First Set of Interrogatories dated March 6, 2020.

Preliminary Statement

Bethel advises that its discovery, investigation, and preparation for trial in this matter are incomplete as of this date. Therefore, Bethel will respond to these Interrogatories to the best of its current knowledge. However, Bethel anticipates that the discovery process will reveal facts, documents, and witnesses presently unknown to Bethel. Bethel may supplement these answers as new information surfaces. Accordingly, these answers are not intended to preclude Bethel from making any contention or relying on any facts, documents, or witnesses at trial, whether or not identified or relied upon here.

ANSWERS TO INTERROGATORIES

INTERROGATORY NO. 1: Identify all persons who are likely to have personal knowledge of any fact alleged in the pleadings, and state the subject matter of the personal knowledge possessed by each such person. (Standard Interrogatory No. 1)

ANSWER: Principal Claire Dant and Dr. Johnny Green are persons with personal knowledge of the events that occurred leading up to and during Bethel's expulsion from BOOST. Principal Dant has primary knowledge of Bethel's expulsion from BOOST and the surrounding circumstances. Defendants Dr. Karen B. Salmon, Matthew Gallagher, Marva Jo Camp, Linda Eberhart, Dr. Nancy S. Grasmick, Elizabeth Green, Beth Sandbower Harbinson, and Dr. A. Skipp Sanders likewise have knowledge of the facts contained in Bethel's Complaint.

INTERROGATORY NO. 2: Identify all people who have expressed interest in attending Bethel Christian Academy who ultimately did not enroll during the Relevant Time Period.

ANSWER: Bethel objects to this interrogatory to the extent that it seeks private and confidential information, including the identities of minor children. Such information is protected by federal law. *See* Family Educational Rights and Privacy Act (FERPA), 22 U.S.C. § 1232g, *et seq.* Bethel further objects to this interrogatory because it violates the First Amendment associational rights of Plaintiff and the associational rights

and right to privacy of individuals expressing interest to Bethel. Lastly, Bethel objects on the grounds that this interrogatory is vague, overly broad, not proportional to the needs of the case, and unduly burdensome. Families often decline to send their students to Bethel for reasons wholly unrelated to issues in this case. For example, families may “express interest” in Bethel merely by submitting an online form, but they may never follow up with Bethel staff or the student may achieve an insufficient score on Bethel’s entrance exam.

INTERROGATORY NO. 3: Identify all students who have been disciplined by Bethel Christian Academy during the Relevant Time Period where a potential consequence of the discipline imposed was expulsion or where the disciplined student left the school within 60 days of the imposition of discipline..

ANSWER: Bethel objects to this interrogatory to the extent that it violates the right of privacy expected and enjoyed by non-parties and seeks confidential information protected by federal law, including the identities of minor children. *See* FERPA, 22 U.S.C. § 1232g, *et seq.* In addition, this interrogatory violates the First Amendment associational rights of Plaintiff and the associational rights and right to privacy of former and current students. Subject to these objections, Bethel responds to this interrogatory in a manner that protects student and family Personally Identifying Information.

Subject to those objections and responsive to this interrogatory, Bethel has not identified any student who was expelled. The most serious disciplinary measures administered included in and out-of-school suspensions. Bethel directs Defendants to records of these incidents produced with these answers, Plaintiff Production 0368-0371.

INTERROGATORY NO. 4: State whether, and if the answer is yes under what circumstances, you would deny admissions to or expel a student who expressed characteristics (including use of pronouns, dress, grooming, bathroom usage, or sex-stereotypical speech or behavior) of a gender other than the student's gender as assigned at birth.

ANSWER: As explained in Bethel's May 29, 2018 letter to Monica Kearns and the BOOST advisory board, Bethel admits all students who meet the school's rigorous academic requirements and who are likely to thrive in the school's structured environment. Bethel would not deny admission to a prospective student based on sexual self-identification. Once admitted, Bethel expects all children to adhere to the school's code of conduct. Bethel insists from the onset that "Parents must agree to support the BCA Core values and school policies. . .[and] support the enforcement of the Code of Conduct." Bethel's conduct standards are applicable to all children. Those conduct standards are outlined in Bethel's parent-student handbook, which includes dress and grooming standards.

In its May 29, 2018 letter referenced above, Bethel explained that “[w]hen BCA responds to a violation of school rules, its primary hope in virtually all circumstances is to bring the student into compliance with behavioral expectations and thus be fully restored and reconciled to the school community.” This is reflected in Bethel’s parent-student handbook, which outlines a number of disciplinary measures that may be implemented before expulsion is necessary—including involving the child’s parent(s) in correcting behavior and adhering to the school’s policies. Bethel also refers Defendants to page 37 of its 2019-20 Parent/Student Handbook, available at ECF 19-13.

INTERROGATORY NO. 5: State all facts supporting paragraph 47 of the complaint, including a full description of how Bethel Christian Academy determined that it has not denied an applicant admission to Bethel based on the sexual orientation of the applicant.

ANSWER: Bethel neither inquires into nor considers a child’s sexual orientation as a criterion for admissions. Because Bethel does not weigh that as a factor for admissions, it has never denied an applicant based on sexual orientation. Sexual orientation of children is simply not relevant to admissions decisions.

Bethel also refers to Defendants to Plaintiff Production 0443-0468, documents which show all instances that Bethel denied admission to a

student from Jan. 1, 2015 through Aug. 8, 2018. Those documents indicate that most applicants were not offered admission because they failed the school's entrance exam and others never completed the admission process.

INTERROGATORY NO. 6: State all facts and identify all documents supporting paragraph 53 of the complaint, including all facts supporting the statement that Bethel Christian Academy's conduct policy prohibits any communication of a sexual nature.

ANSWER: Bethel directs Defendants to its Parent/Student Handbook, specifically page 35, available at ECF 19-13. That page lists numerous Behavioral Offenses, the first of which is "Any communication or behavior of a sexual nature."

INTERROGATORY NO. 7: State all facts and identify all documents supporting paragraph 52 of the complaint, including all facts supporting the statement that Bethel Christian Academy's conduct policy prohibits "physical contact or public affection."

ANSWER: Bethel directs Defendants to its Parent/Student Handbook, specifically page 35, available at ECF 19-13. That page lists numerous Behavioral Offenses which prohibits "[i]nappropriate relationships" and explains that "[t]here is to be no physical contact or public displays of affection." Further, as shown in Bates-stamped documents Plaintiff

Production 0370, inappropriate physical contact and public displays of affection violate school policy and can result in disciplinary action if the behavior defies multiple verbal corrections. That document memorialized that in April 2018, one male student was suspended after he was found hugging a female student in a stairwell after the pair was instructed multiple times to stop physical contact and engaging in public displays of affection.

INTERROGATORY NO. 8: State all facts supporting your contention in paragraph 92 of the complaint that “MSDE began investigating the policy language of BOOST schools in the fall of 2017.”

ANSWER: Bethel directs Defendants to the affidavit of Donna Gunning, submitted by Defendants in support of their opposition to Bethel’s Motion for Preliminary Injunction available at ECF 22-1. In that affidavit, Ms. Gunning states in ¶ 7 that the BOOST Board sought information from BOOST-eligible schools regarding their handbooks and other admissions policies after they received written testimony from the Maryland Parent Teacher Association in 2017. The Maryland PTA’s written testimony is dated October 2017. Bethel also directs Defendants to BOOST Board Chairman Matthew Gallagher’s letter to BOOST-eligible schools, dated October 13, 2017, available at ECF 19-14.

INTERROGATORY NO. 12: State all facts supporting your contention in paragraph 93 of the complaint that “this action was not prompted by any allegation of discrimination in student admissions that would violate the BOOST nondiscrimination requirement.”

ANSWER: Bethel has never received any complaint or allegation of discrimination. Nor has it ever learned of any incident, complaint, or allegation of discrimination against other BOOST-participating schools. Briefing and documents produced by Defendants suggest that complaints submitted to the BOOST Board by the Maryland Parent Teacher Association spurred these events and ultimately led the BOOST Board and MSDE to expel schools with disfavored religious beliefs from BOOST.

INTERROGATORY NO. 13: State all facts and provide all calculations supporting your contention in paragraph 142 of the complaint that “Bethel would be in serious financial constraints if forced to pay \$102,600 to MSDE.”

ANSWER: Bethel has suffered significant drops in enrollment, from 329 in the 2017-18 school year to 251 in the present school year. Bethel has suffered a commensurate loss of tuition revenue. Additionally, Bethel no longer received other state aid money, such as funds from the Textbook and Technology and Aging Schools programs. To cover the lost revenues, the school has been forced to forego hiring teachings and backfilling positions and updating equipment. In view of these significant financial

hardships that were a direct consequence of Defendants expelling Bethel from the BOOST program, the school is not in a financial place to pay the clawback funds demanded by the State. Bethel never budgeted to return \$102,600 in funds used to educate Bethel students in 2016-17 and 2017-18. Attempting to find such a significant sum now would exacerbate the financial strains caused by Defendants' actions.

INTERROGATORY NO. 14: Identify the six students referenced in paragraph 145 of the complaint.

ANSWER: Bethel objects to this interrogatory to the extent that it seeks confidential information, including the identities of minor children, whose records and personal information are protected by federal law. *See FERPA, 22 U.S.C. § 1232g, et seq.* In addition, this interrogatory violates the First Amendment associational rights of Plaintiff and the associational rights and right to privacy of former or current students.

INTERROGATORY NO. 15: Identify the two students referenced in paragraph 142 of the complaint.

ANSWER: Bethel objects to this interrogatory to the extent that it seeks confidential information, including the identities of minor children, whose records and personal information are protected by federal law. *See FERPA, 22 U.S.C. § 1232g, et seq.* In addition, this interrogatory violates the

First Amendment associational rights of Plaintiff and the associational rights and right to privacy of former and current students.

INTERROGATORY NO. 16: Describe by category and location all documents, electronically stored information and tangible things that you may use to support your claims in this case.

ANSWER: Bethel will rely on documents provided by Defendants, including its correspondence with Defendants about Bethel's eligibility the BOOST, Aging Schools, and Textbooks and Technology Programs. Bethel also directs Defendants to Bethel's Motion for Preliminary Injunction, the video recording of a BOOST Board meeting, documents produced by Defendants, and publicly available documents at the BOOST and MSDE websites or that are within Defendants' custody, possession, or control. Bethel continues to build its case as discovery progresses and has not yet identified which documents it will rely on to support its case beyond the documents produced in support of Bethel's Motion for Preliminary Injunction or those recently produced to Defendants.

INTERROGATORY NO. 17: If you contend that any defendant has made any admission and/or declaration against interest relating to any claims or defenses involved in this lawsuit, identify the person making each such admission or

declaration, the substance of each such admission or declaration, the date of each such admission or declaration and identify all documents relating to each such admission or declaration.

ANSWER: Bethel objects to this interrogatory to the extent it calls for a legal conclusion. Subject to that objection, Bethel maintains that publicly made comments of the BOOST Board Chair Gallagher and other BOOST Board members constitute admissions or declarations against interest in that they demonstrate hostility toward Bethel and Bethel's religious beliefs. Bethel previously identified these comments in its Complaint, briefing in opposition to Defendants' Motion to Dismiss, and briefing in support of its Motion for Preliminary Injunction. Moreover, Bethel provided a Vimeo link to a video recording of the BOOST meeting where these comments were made. Bethel also provided a transcript in support of its Motion for Preliminary Injunction.

INTERROGATORY NO. 18: Identify and describe all communications you had with anyone, other than your attorneys, concerning any of the matters described in the Complaint, including in your answer the parties to each communication, the subject matter of each communication and the date and time of each communication.

ANSWER: Bethel objects to this interrogatory on the basis that it is vague, ambiguous, and overly broad. Subject to those objections, Bethel notes

that all written communications with the State regarding Bethel's expulsion from BOOST and related programs are within the Defendants' custody and control. Bethel has answered questions raised by parents, members of the Bethel Ministry's congregation, and other members of the community. Bethel has explained to its school parents that it was expelled from BOOST and other state aid programs.

INTERROGATORY NO. 19: Identify every person you expect to call as a witness in this action, and for each individual state with specificity the subject matter of their testimony.

ANSWER: Bethel has not yet established the witnesses it will call in this lawsuit, but it will produce such a list when requested by the Court.

Subject to that statement, Bethel may call Defendants in this case and their agents or associates, as well as Principal Claire Dant. Principal Dant may testify to the impact that Bethel's exclusion has had on the school, its staff, its students, and their parents. She may also testify about Bethel's interactions with the MSDE and the BOOST Advisory Board, Bethel's expulsion from the BOOST program, and other information contained in the Complaint. Bethel may also call Dr. Johnny Green as a witness. Dr. Green may testify on the adverse financial impact that Bethel's expulsion from BOOST and related programs has had on the school and the effect these events have had on the greater Bethel Ministries community.

Dated this 22nd day of May, 2020.

Respectfully submitted,

/s/ Paul Schmitt

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Counsel for Plaintiffs

**Admitted Pro Hac Vice*

VERIFICATION

I, Claire Dant, a citizen of the United States and a resident of the State of Maryland, acting on behalf of Bethel Christian Ministries, in my capacity as Principal of Bethel Christian Academy, hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that I have read the foregoing First Amended Answers to Defendants' First Set of Interrogatories and that the statements contained therein are true and correct.

Dated this 19th day of May, 2020, at Laurel, Maryland.



Claire Dant
Bethel Christian Academy

CERTIFICATE OF SERVICE

I hereby certify that on May 22, 2020, the foregoing was served in compliance with the Federal Rules of Civil Procedure to the following:

Sarah W. Rice
Assistant Attorney General
200 Saint Paul Place, 20th Floor
Baltimore, MD 21202
srice@aog.state.md.us

/s/ Paul Schmitt

Paul Daniel Schmitt

Attorney for Plaintiffs

EXHIBIT 4

LAWRENCE J. HOGAN, JR., Governor

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Chapter 150

(House Bill 150)**Budget Bill****(Fiscal Year 2018)**

AN ACT for the purpose of making the proposed appropriations contained in the State Budget for the fiscal year ending June 30, 2018, in accordance with Article III, Section 52 of the Maryland Constitution; and generally relating to appropriations and budgetary provisions made pursuant to that section.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That subject to the provisions hereinafter set forth and subject to the Public General Laws of Maryland relating to the Budget procedure, the several amounts hereinafter specified, or so much thereof as shall be sufficient to accomplish the purposes designated, are hereby appropriated and authorized to be disbursed for the several purposes specified for the fiscal year beginning July 1, 2017, and ending June 30, 2018, as hereinafter indicated.

PAYMENTS TO CIVIL DIVISIONS OF THE STATE

A15000.01 Disparity Grants

General Fund Appropriation, provided that this appropriation shall be reduced by ~~\$8,443,550~~ \$2,414,665 contingent upon the enactment of legislation ~~level-funding the grants at the fiscal 2017 amount~~ modifying the formula for disparity grants.

Further provided that \$10,000,000 of this appropriation for Baltimore City may not be distributed as a grant to Baltimore City until the Maryland State Department of Education (MSDE) certifies that Baltimore City has appropriated for fiscal 2018 an additional \$10,000,000 for the Baltimore City Public Schools (BCPS) over the fiscal 2017 Maintenance of Effort appropriation. If MSDE does not certify that Baltimore City has appropriated an additional \$10,000,000 for the school system, then the funds may not be distributed as a grant to Baltimore City, and authority is hereby granted to transfer \$10,000,000 to R00A02.01 to be provided as a grant to BCPS. If the funds are not transferred for

Exhibit
31

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2017 LAWS OF MARYLAND

Ward Museum	33,423
Young Audiences of Maryland	85,000

R00A03.04 Aid to Non–Public Schools

Special Fund Appropriation, provided that this appropriation shall be for the purchase of textbooks or computer hardware and software and other electronically delivered learning materials as permitted under Title IID, Section 2416(b)(4), (6), and (7) of the No Child Left Behind Act for loan to students in eligible nonpublic schools with a maximum distribution of \$65 per eligible nonpublic school student for participating schools, except that at schools where ~~at least 20%~~ from 20% to 40% of the students are eligible for the free or reduced–price lunch program there shall be a distribution of \$95 per student, and at schools where more than 40% of the students are eligible for the free or reduced–price lunch program there shall be a distribution of \$155 per student. To be eligible to participate, a nonpublic school shall:

- (1) Hold a certificate of approval from or be registered with the State Board of Education;
- (2) Not charge more tuition to a participating student than the statewide average per pupil expenditure by the local education agencies, as calculated by the department, with appropriate exceptions for special education students as determined by the department; and
- (3) Comply with Title VI of the Civil Rights Act of 1964, as amended.

The department shall establish a process to ensure that the local education agencies are effectively and promptly working with the nonpublic schools to assure that the

LAWRENCE J. HOGAN, JR., Governor

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nonpublic schools have appropriate access to federal funds for which they are eligible.

Further provided that the Maryland State Department of Education shall:

- (1) Assure that the process for textbook, computer hardware, and computer software acquisition uses a list of qualified textbook, computer hardware, and computer software vendors and of qualified textbooks, computer hardware, and computer software; uses textbooks, computer hardware, and computer software that are secular in character and acceptable for use in any public elementary or secondary school in Maryland; and
- (2) Receive requisitions for textbooks, computer hardware, and computer software to be purchased from the eligible and participating schools, and forward the approved requisitions and payments to the qualified textbook, computer hardware, or computer software vendor who will send the textbooks, computer hardware, or computer software directly to the eligible school, which will:
 - (i) Report shipment receipt to the department;
 - (ii) Provide assurance that the savings on the cost of the textbooks, computer hardware, or computer software will be dedicated to reducing the cost of textbooks, computer hardware, or computer software for students; and

- (iii) Since the textbooks, computer hardware, or computer software shall remain property of the State, maintain appropriate shipment receipt records for audit purposes.

Further provided that a nonpublic school participating in the Aid to Non-Public Schools Program R00A03.04 shall certify compliance with Title 20, Subtitle 6 of the State Government Article. A nonpublic school participating in the program may not discriminate in student admissions on the basis of race, color, national origin, or sexual orientation. Nothing herein shall require any school or institution to adopt any rule, regulation, or policy that conflicts with its religious or moral teachings. However, all participating schools must agree that they will not discriminate in student admissions on the basis of race, color, national origin, or sexual orientation. The sole legal remedy for violation of these provisions is ineligibility for participating in the Aid to Non-Public Schools Program..

6,040,000

R00A03.05 Broadening Options and Opportunities for Students Today

Special Fund Appropriation, provided that this appropriation shall be for a Broadening Options and Opportunities for Students Today (BOOST) Program that provides scholarships for students who are eligible for the free or reduced-price lunch program to attend eligible nonpublic schools. The Maryland State Department of Education (MSDE) shall administer the grant program in accordance with the following guidelines:

- (1) To be eligible to participate in the BOOST Program, a nonpublic school must:

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- (a) participate in Program R00A03.04 Aid to Non-Public Schools Program for textbooks and computer hardware and software administered by MSDE;
- (b) provide more than only prekindergarten and kindergarten programs;
- (c) administer assessments to all students in accordance with federal and State law; and
- (d) comply with Title VI of the Civil Rights Act of 1964 as amended, Title 20, Subtitle 6 of the State Government Article, and not discriminate in student admissions on the basis of race, color, national origin, or sexual orientation. Nothing herein shall require any school or institution to adopt any rule, regulation, or policy that conflicts with its religious or moral teachings. However, all participating schools must agree that they will not discriminate in student admissions based on race, color, national origin, or sexual orientation. If a nonpublic school does not comply with these requirements, it shall reimburse MSDE all scholarship funds received under the BOOST Program and may not charge the student tuition and fees instead. The only other legal remedy for violation of this

provision is ineligibility for participating in the BOOST Program.

- (2) MSDE shall establish procedures for the application and award process for scholarships for students who are eligible for the free or reduced-price lunch program. The procedures shall include consideration for award adjustments if an eligible student becomes ineligible during the course of the school year.
- (3) MSDE shall compile and certify a list of applicants that ranks eligible students by family income expressed as a percent of the most recent federal poverty levels.
- (4) MSDE shall submit the ranked list of applicants to the BOOST Advisory Board.
- (5) There is a BOOST Advisory Board that shall be appointed as follows: 2 members appointed by the Governor, 2 members appointed by the President of the Senate, 2 members appointed by the Speaker of the House of Delegates, and 1 member jointly appointed by the President and the Speaker to serve as the chair. A member of the BOOST Advisory Board may not be an elected official and may not have any financial interest in an eligible nonpublic school.
- (6) The BOOST Advisory Board shall review and certify the ranked list of applicants and shall determine the scholarship award amounts.
- (7) MSDE shall make scholarship

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awards to eligible students as determined by the BOOST Advisory Board.

(8) The amount of a scholarship award may not exceed the lesser of:

(a) the statewide average per pupil expenditure by local education agencies, as calculated by MSDE; or

(b) the tuition of the nonpublic school.

(9) In order to meet its BOOST Program reporting requirements to the budget committees, MSDE shall specify a date by which participating nonpublic schools must submit information to MSDE so that it may complete its report. Any nonpublic schools that do not provide the necessary information by that specified date shall be ineligible to participate in the BOOST Program.

(10) Students who received a BOOST Program scholarship award in the prior year who still meet eligibility criteria for a scholarship shall receive a scholarship renewal award. For students who are receiving a BOOST Program scholarship for the first time, priority shall be given to students who attended public schools in the prior school year.

Further provided that no scholarship awards shall be made after March 8, 2017. Any unexpended funds not

awarded to students for scholarships in the 2016–2017 school year shall be encumbered at the end of the fiscal year and available for scholarships in the 2017–2018 school year.

~~Further provided that up to \$150,000 of the appropriation may be used by MSDE to cover the reasonable costs of administering the BOOST Program.~~

Further provided that MSDE shall submit a report to the budget committees by December 15, 2017, that includes the following:

- (1) the number of students receiving BOOST Program scholarships;
- (2) the amount of the BOOST Program scholarships received;
- (3) the number of certified and noncertified teachers in core subject areas for each nonpublic school participating in the BOOST Program;
- (4) the _____ assessments _____ being administered in accordance with federal and State law by nonpublic schools participating in the BOOST Program, _____ as well as student performance on those assessments. ***For nonpublic schools administering norm referenced assessments, the nonpublic schools shall provide to MSDE the results for all students receiving BOOST Program scholarships to whom assessments were administered. For those nonpublic schools administering non-standardized assessments, the nonpublic schools shall***

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provide to MSDE the results for all students receiving BOOST Program scholarships to whom assessments were administered and how students receiving BOOST Program scholarships performed in comparison to students who did not receive BOOST Program scholarships. MSDE shall report these assessment results reported by nonpublic schools to the budget committees in an aggregate manner that does not violate student data privacy;

- (5) in the aggregate, for each BOOST Program scholarship awarded (1) the nonpublic school and grade level attended by the student; (2) the school attended in the 2016–2017 school year by the student; and (3) if the student attended the same nonpublic school in the 2016–2017 school year, whether, what type, and how much nonpublic scholarship aid the student received in the 2016–2017 school year and will receive in the 2017–2018 school year;
- (6) the average household income of students receiving BOOST Program scholarships;
- (7) the racial breakdown of students receiving BOOST Program scholarships;
- (8) the number of students designated as English language learners receiving BOOST Program scholarships;
- (9) the number of special education

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students receiving BOOST
Program scholarships;

(10) the county in which students
receiving BOOST Program
scholarships reside;

(11) the number of students who were
offered BOOST Program
scholarships but declined them, as
well as their reasons for declining
the scholarships and the
breakdown of students attending
public and nonpublic schools for
students who declined scholarships;
and

(12) the number of students who
received BOOST Program
scholarships for the
2016–2017 school year who are
attending public school for the
2017–2018 school year, as well as
their reasons for returning to public
schools

~~6,850,000~~
~~2,055,904~~
~~6,850,000~~
5,500,000

SUMMARY

Total General Fund Appropriation	29,816,020
Total Special Fund Appropriation	11,540,000
	<hr/>
Total Appropriation	41,356,020
	<hr/> <hr/>

CHILDREN'S CABINET INTERAGENCY FUND

R00A04.01 Children's Cabinet Interagency Fund	
General Fund Appropriation	18,655,376
	<u>18,555,376</u>
	<hr/> <hr/>

MARYLAND LONGITUDINAL DATA SYSTEM CENTER

EXHIBIT 5

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF MARYLAND
3 NORTHERN DIVISION

4 BETHEL MINISTRIES, INC.,

5 Plaintiffs

Case No.

6 vs.

1:19-CV-01853

7 DR. KAREN SALMON, ET AL,

8 Defendants

9 _____ /

10 Pursuant to Notice, the remote
11 video-recorded deposition of MONICA KEARNS was
12 taken on Friday, April 23, 2021, commencing at
13 9:31 a.m., before David C. Corbin, a Registered
14 Professional Reporter and Notary Public.

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REPORTED BY: David Corbin, RPR

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A P P E A R A N C E S

ON BEHALF OF THE PLAINTIFF:

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VIDEOGRAPHER: Eliza Spikes

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I N D E X

Name of Witness

Monica Kearns

Examination:

By Mr. Schmitt

Page

5

E X H I B I T S

Exhibit 84 E-mail chain, 5/9/17 30

Exhibit 85 Maryland PTA letter, 10/11/17 38

Exhibit 86 Letters from Trinity Lutheran 57

Exhibit 87 E-mail exchange 89

Exhibit 89 E-mail from Broadfording, 6/4/18 107

Exhibit 90 E-mail from Fleming 111

Exhibit 91 Letter, 2/13/18 113

Exhibit 88 Kearns e-mail string, 9/5/18 116

Exhibit 92 Kearns e-mail, 4/11/18 126

1 IT IS HEREBY STIPULATED AND AGREED that
2 the reading and signing of this deposition are not
3 waived.

4 VIDEOGRAPHER: Good morning. We are going
5 on the video record at 9:31 a.m. on Friday,
6 April 23rd, 2021. This is media unit number
7 one in the video recorded deposition of
8 Ms. Monica Kearns. Taken in the matter of
9 Bethel Ministries versus Salmon, et al. Filed
10 in the United States District Court for the
11 District of Maryland, Northern Virginia.
12 Northern Division, excuse me. Case number
13 1:19-CV-01853. This deposition is being held
14 via Zoom. My name is Eliza Spikes and I'm from
15 the firm Veritext and I'm the legal
16 videographer. The court reporter today is
17 Mr. David Corbin, also from Veritext. I'm not
18 authorized to administer the oath, I'm not
19 related to any party in this action, nor am I
20 financially interested in the income. Counsel
21 and all present in the room and anyone
22 attending remotely will now state their
23 appearances and affiliations for the record.
24 If there are any objections to this proceeding,
25 please state them at the time of your

1 appearance beginning with the noticing
2 attorney.

3 MR. SCHMITT: Good morning. This is Paul
4 Schmitt representing Bethel. And I'm from
5 Alliance Defending Freedom. With me today --
6 well, observing today are Ryan Tucker and Jacob
7 Reed.

8 MS. SHERIDAN: Hello. For the record this
9 is Ann Sheridan, Assistant Attorney General,
10 representing the defendants in this matter and
11 for today representing the witness. Also
12 observing is Justin Fine from my office, the
13 Office of the Attorney General.

14 VIDEOGRAPHER: Okay. Thank you. Will the
15 court reporter please swear in the witness.

16 (Witness sworn.)

17 VIDEOGRAPHER: All right. Thank you. You
18 may proceed.

19 MONICA KEARNS,
20 duly been sworn/affirmed to tell the truth, the
21 whole truth, and nothing but the truth, testifies as
22 follows:

23 E X A M I N A T I O N

24 BY MR. SCHMITT:

25 Q. Thank you. Good morning, ma'am. So I'm

1 Paul Schmitt, I'm with ADF. I represent Bethel.
2 You're, I'm sure, familiar that this legal matter
3 exists. Have you ever been involved in a lawsuit in
4 any capacity before today?

5 A. No, I have not.

6 Q. Okay. And have you ever been deposed
7 before today?

8 A. No.

9 Q. Okay. So I'm probably just -- because I
10 think it's unusual the way we're doing it with Zoom
11 and everything. I like to get some kind of ground
12 rules and explanations. So as an initial matter,
13 you're not a party to this litigation, you're not in
14 trouble, and I'm not here to get you today. What
15 we're doing is we're in the discovery phase of the
16 litigation. So I represent the school. They
17 brought claims against the State of Maryland and
18 some public officials there. And so there is an
19 exchange of documents going on between the parties.
20 And then what we do is these depositions, which are
21 just basically interviews where I ask a bunch of
22 questions to get information. A lot of my questions
23 are going to be related to the documents that I've
24 got, and a lot of that is for the purposes of
25 establishing a record. Because the next step will

1 be motions for summary judgment. So that's kind of
2 globally what's going on right now. And the reason
3 you're here is you happen to have a very critical
4 role in MSDE during a critical time of the facts of
5 the case. So that's why I wanted to talk to you.
6 And I'll probably show you a lot of documents today.
7 The way that it typically works is it's -- I'm going
8 to sound like I'm asking a lot of dumb questions.
9 And I'm not doing that to insult your intelligence
10 and I'm not doing that to make myself seem dumb.
11 It's because the final product of today will be a
12 transcript. And so when it gets used, someone is
13 going to be reading it and they are going to want to
14 know, you know, what we're talking about. So I may
15 say, do you see this thing right here, I've
16 highlighted this thing, could you read that out
17 loud. That's why I've having you do that so that
18 when the readers got it later it makes sense to
19 them.

20 A. Okay. Thanks.

21 Q. Yeah, that's kind of what's going on. Do
22 you have a preference on how I address you. Do you
23 prefer Mrs. Kearns, Ms. Kearns, Monica, any of
24 those?

25 A. Monica is fine. Thanks.

1 Q. Okay I'm Paul. Call me Paul. Ann and
2 Justin have heard me say this a million times, I'll
3 answer to whatever you call me, but Paul is fine
4 with me. Let's see. Okay. Now, because of Covid
5 and the remote nature of this, we have some things
6 I'm just going to run through and ask you. Normally
7 we would be in a room and I would be sliding the
8 documents across the table and, you know, all that
9 kind of stuff. We don't have that now. So I'm
10 going to share my screen. We have a software
11 program that's allowing me to go back and forth and
12 send -- basically send out documents to everybody
13 who needs to have them. But what we figured out is
14 that it's just easier if I share my screen and let
15 you look at it. So I'm going to have that up and
16 I'll zoom in when I need to. But if you need me to
17 scroll up or down or zoom in or zoom out, just let
18 me know.

19 A. Okay.

20 Q. Okay. What else. Okay. So here are my
21 kind of Zoom related questions. So is there anybody
22 in the room with you today?

23 A. No. No. Now, I do have a dog who is
24 coming in and out. He should be quiet. But that's
25 the only other presence in the room.

1 Q. We have several dogs that made appearances
2 over the course of the last week, so...

3 A. I'm sure.

4 Q. That's not unusual, it's okay. Okay. So
5 he may come in and out, but if anybody other than
6 your dog comes in, just let us know.

7 A. Sure.

8 Q. And the reason for that is unlike
9 Millionaire, there is no phone a friend option
10 today. I'm trying to get what you know, what you
11 remember to the best of your ability.

12 A. Okay.

13 Q. And to that extent, I would ask that if
14 you have an instant messaging function on your
15 computer, don't use that. No text messages. No --
16 you know, any means that would allow you to
17 communicate with somebody else, that's not
18 appropriate while we're doing the deposition.

19 A. Okay.

20 Q. It seems like you can see and hear me
21 clearly?

22 A. Yes, I can.

23 Q. Great. Do you have anything with you
24 today. Do you have any notes or documents or
25 anything like that?

1 A. I have a note that I -- a sticky note I
2 wrote to myself.

3 Q. Okay. That's something you prepared?

4 A. Of why I'm here and what my role was and
5 that's -- that's why I'm here.

6 Q. Okay. Okay. And you prepared that by
7 yourself without any help or anything else?

8 A. Yup, I wrote it this morning.

9 Q. Okay. Good. Is there anything else
10 you've got, binders or anything?

11 A. No. No, I don't.

12 Q. No documents up on your screen or anything
13 like that?

14 A. No.

15 Q. Okay. That's all good. Let's see, did I
16 hit them all. Okay. So first of all, I would say I
17 am very grateful you made yourself available to take
18 this. And I want to be considerate of your time, so
19 I do not intend to keep you here all day and I want
20 to move -- truck along as fast as we can to free you
21 up. But, I will tell you you're on a lot of
22 documents.

23 A. Yeah. Yeah.

24 Q. By nature of what your job was. So I'm
25 going to try to go quickly but it might take longer

1 than I hope. We'll see. We'll try to get it done.

2 A. Okay.

3 Q. If you need a break though at any time,
4 coffee, rest room, whatever it is --

5 A. Okay.

6 Q. -- just -- after whatever -- if we're in
7 the middle of a question, after you finish your
8 answer, just say, hey, can we take a break and I'll
9 say sure and we'll do that. I don't know if we'll
10 go -- if we'll go past lunch or need to take a long
11 lunch break or whatever it is, I don't know yet, but
12 we'll see how this goes.

13 A. Okay. And just by the way, I am
14 standing -- if I'm like looking funny like what is
15 she doing, I'm standing. I'm at a standing desk
16 right now, so like if I lean over here and get my
17 water, like zip, zip, I'm leaning over to get my
18 water. It just looks weird.

19 Q. I admire that, it's good for your heart
20 and health and I wish I had one, but here I am.

21 A. Yeah.

22 Q. Okay. That's fine. Let's see. Anything
23 else. Oh, yeah. So when we were doing depositions
24 with our clients, we were running into all kinds of
25 technical problems, mostly because we had never done

1 it this way before. If something happens, you can't
2 hear any more, you can't see me, everything freezes.
3 We had some freezing issues with Felicia yesterday.
4 If anything like that starts to happen, no big deal,
5 we'll pause, we'll get it figured out, but let us
6 know if you can't hear somebody or see somebody.

7 A. Okay.

8 Q. And we'll deal with it that way. I think
9 that is it as far as intro stuff. Do you have any
10 questions?

11 A. No.

12 Q. Okay. So let's get trucking here. So,
13 again, because of the transcript nature of what
14 we're doing, this will seem kind of silly, but could
15 you please for the record tell me your name and then
16 spell it?

17 A. Sure. Monica, M-O-N-I-C-A, Kearns,
18 K-E-A-R-N-S.

19 Q. Great. Thank you, Monica. And where do
20 you live?

21 A. In Catonsville, Maryland.

22 Q. Okay. And is that where you're at right
23 now?

24 A. Yes.

25 Q. Okay. Could you run me through, please,

1 your educational background?

2 A. Sure. I have a Bachelor's degree in
3 international studies and journalism, and a Master's
4 degree in international policy.

5 Q. And what institutions granted those
6 degrees?

7 A. Both of those are from the University of
8 Denver.

9 Q. Okay. And then how about your
10 professional background?

11 A. Professional background. Right out of
12 college was in writing and editing and public
13 relations type communications work. And then around
14 the year 2000, yes, 2000, I finished my graduate
15 degree and went into public policy type work. And
16 since -- since about 2003 it's been fiscal work in
17 Maryland State -- Maryland State and local
18 government.

19 Q. Great. Where were your public policy jobs
20 at?

21 A. Since 2003. 2000, 2003?

22 Q. Yeah. Wasn't that the window where you
23 said you kind of transitioned over to that?

24 A. It was. So the National Conference of
25 State Legislatures. And then since 2003 -- do you

1 need me to kind of go through the employers in
2 Maryland?

3 Q. Yeah, if you would like.

4 A. Okay.

5 Q. This is all background information.

6 A. Sure. Okay. So in 2003 started at the
7 Department of Legislative Services at the Maryland
8 General Assembly. Worked there and then until 2008,
9 with a maternity leave gap. Actually how did that
10 go. Yup, 2008 worked there until 2008, and then the
11 maternity leave gap, and then came back for two more
12 years. Then went to Baltimore City. So local
13 government. And then MSDE. And MSDE, I must have
14 started there in 2013. I could look it up if you
15 need me to. But then left MSDE in September 2018.

16 Q. Okay. And then where did you go from
17 MSDE?

18 A. I went to Howard County Government.

19 Q. And go ahead.

20 A. I was just going to say. Now I'm back
21 with the State at the Department of Transportation.

22 Q. Okay. Interesting. What's your role at
23 the Department of Transportation?

24 A. It's fiscal. Yup. I've been in fiscal
25 roles since 2003, switching into public sector. So

1 I'm a budget director for MDOT.

2 Q. Are you originally from Maryland. You
3 have your degrees from Colorado?

4 A. Right. I'm originally from Texas and
5 lived in a couple of states. Went to college in
6 Colorado, yeah. Lived there for a while.

7 Q. I lived in Colorado Springs for a while.
8 It's very beautiful.

9 A. It's so pretty there.

10 Q. Okay. So -- and then you were at MSDE
11 around 2013, the BOOST program starts around 2016.
12 What was your initial role at MSDE?

13 A. My role at MSDE was in charge of business
14 services. So budget group, accounting group,
15 procurement. What they call local recording. So
16 that was the -- that was the role I was hired for.

17 Q. Okay. And then in -- were you still on
18 the business services role when BOOST came along?

19 A. Yes.

20 Q. Okay. And then you ended up kind of -- am
21 I right that you ended up kind of over BOOST in that
22 role?

23 A. Yes, that -- the administration of the
24 BOOST program was added to my role. It was just
25 added on, yeah.

1 Q. Okay. Additional duty?

2 A. Right.

3 Q. Okay. So -- okay. So that helps me. So
4 then with -- you've got the administration of the
5 BOOST program. What were the other programs or
6 roles that you had within your title there?

7 A. Right. Again it was all fiscal related.
8 So I was over several units, including the budget
9 unit, the procurement unit, the accounting unit, and
10 a financial recording unit, which was kind of helped
11 grant managers keep track of their funds available
12 on their grants and do their federal reporting. So
13 that was -- that was my role. And then the General
14 Assembly created the BOOST program and it was
15 assigned to MSDE, and there wasn't -- there wasn't a
16 clear place to assign that responsibility within
17 MSDE, and so it was -- it was assigned to me. I
18 just -- I miss -- anyway. Yeah. That's what
19 happened.

20 Q. Okay. So -- okay. So did you -- had you
21 dealt with a program like BOOST before?

22 A. No.

23 Q. Okay. Did you have any oversight or role
24 with respect to the textbook program?

25 A. Yes, I did. Yes, I did. So that is a

1 link. Now, the textbook program in terms of role
2 and responsibility and the time demand to administer
3 that program, much, much smaller. And since that is
4 basically a procurement program -- the textbook
5 program is a procurement program because schools are
6 getting reimbursed for textbooks. So that's why
7 that ended up in the business services unit, because
8 we were processing invoices for textbook vendors and
9 that's really the bread and butter of that textbook
10 program. They had to give us their enrollment data
11 once a year to show -- and their tuition data to
12 show that they qualified. And then the whole
13 program was about processing invoices. So that's
14 why the textbook program definitely made sense,
15 really you could say, to live within the business
16 services division.

17 Q. Did you feel at the time that it made
18 sense for the BOOST program to come to you?

19 A. No.

20 Q. Okay. What about did you have any role in
21 the aging schools program?

22 A. That is a construction program. And the
23 school construction agency, that's actually a
24 different entity than MSDE. They administer that
25 program. So, no, I did not have any role in that

1 until BOOST was launched and now -- it's funny you
2 said that. And then talking to Ann, just some
3 things I remember. There was a point at which after
4 BOOST started the -- the requirements that were in
5 the BOOST language, the requirements for schools,
6 were added on to the textbook program and the aging
7 schools programs. Those had already been going for
8 years and years and years. But since they were
9 dealing with the same schools, the General Assembly
10 decided they wanted to add the requirements that
11 they had for BOOST to those two other programs. Not
12 until then did I have anything to do with the aging
13 schools programs. At that point we had to make sure
14 that the three programs were kind of working in sync
15 as far as which schools were participating, but not
16 until then did I have anything to do with the aging
17 schools program because it's a construction program
18 administered by a different entity.

19 Q. Okay. You reminded me, speaking of
20 construction programs, I may mute myself on and off
21 all morning because our office is located on a
22 street that inexplicably people come and jackhammer
23 and dig it up, seeming like every week or every day.
24 And then they fill it back in and then they come
25 back out and jackhammer it up again a day or two

1 later. So I don't know -- it's been that way over a
2 year, but the point is if I mute myself or if you
3 hear a rattling in the background that's going on, I
4 apologize in advance for that.

5 A. Sure.

6 Q. Okay. So the BOOST program gets created
7 in the budget bill, I think what would be for
8 2016/2017; is that correct?

9 A. I don't recall.

10 Q. Okay. Do you recall -- you recall that
11 the BOOST program was created at some time?

12 A. Yes, it was like about two, two and a half
13 years into my tenure at MSDE, yes.

14 Q. Okay. And it comes to you, right, because
15 in the business services division. What do you do
16 or how does it get started when you're handed a
17 brand new program. Walk me through the process how
18 that worked?

19 A. So it was created by the General Assembly
20 with no additional staffing provided to launch and
21 run the program. And this happens all the time.
22 And you hear us, you know, put upon public sector
23 employees saying this kind of stuff, but there is a
24 reason that we grouched about that because it's
25 pretty tough. Because I was hired for, you know,

1 high level, senior level job that was taking a lot
2 of hours already. And so, good question, I had to
3 figure this out. It just was assigned to me and
4 basically on day one we had the budget bill
5 language. That's what we had. There was nothing
6 else. Not a single thing. We had no staff to say
7 here you go, can you do some leg work, we'll figure
8 this out. So -- so we started -- we realized
9 that -- so the funding was available for the coming
10 fiscal year, so the General Assembly adjourns in
11 April, the fiscal year book begins July 1, schools
12 start in August. We had to set up this program
13 immediately so that students could hear about it,
14 learn about it, and apply and get awarded all before
15 August. And it's April. So the first year we
16 just -- we just had Excel. We just had Microsoft
17 Excel. What did we do? We used like a little -- I
18 swear it was like a little \$50 app or something
19 where people -- I don't remember the name of it, but
20 it was just some little software app that you can
21 put up on the web, people can go there, fill in
22 their information to apply for the funds, and click
23 submit and then that data flows into an Excel sheet
24 in the background. And so -- and then we would have
25 to download that Excel sheet, you know, and get a

1 new data set. And so anyway, we had to come up with
2 the application guidelines, we had to come up with
3 the application itself, and we had to get the -- we
4 had to help get the board -- we didn't get the board
5 organized, but the board members were named and then
6 we had to convene a meeting of the board as soon as
7 possible because some determinations needed to be
8 made that were like vague in the language, so we
9 needed the governing body to meet and make some
10 decisions so we could administer the program.
11 Again, trying to get the funds awarded before
12 August. So seriously, there was no recipe, there
13 was no handbook, there was no direction. There was
14 only the governing language in the budget bill. And
15 so we just had to use our -- ourselves. We had to
16 use what we knew and could do and set it up and run
17 it. And then, you know, it got refined over time.
18 We bumped it up to a better software program that's
19 meant to accommodate people making applications so
20 that they could go in, enter their data, save it,
21 leave, come back, you know. Whereas the first time
22 it was just a little rinky dink program they had to
23 enter it all in one fail swoop. There was no saving
24 and making an account and coming back later.
25 Anyway, as you can see, that's -- that was my role.

1 I'm an administrator, I have to run things. And so
2 that was always where my mind was, what are the
3 mechanics of getting the program through all the
4 steps that it needed to get through so that the
5 recipients could get their funds, the recipients,
6 you know, school/students could get their funds as
7 quickly as possible.

8 Q. Get the trains running on time.

9 A. Yeah.

10 Q. So with a brand new program, what kind of
11 solicitation or what -- how did you get the schools
12 involved in it?

13 A. Well, that was something -- so we -- let's
14 see. A number of schools had been lobbying the
15 legislatures for years for this type of program. A
16 number of schools. And so this was a really big
17 deal for them when BOOST was established. So they
18 did a great job in getting the word out to the
19 nonpublic community it seemed to us. Now, we
20 also -- they did their own kind of, I don't know,
21 they did their own information sharing. What we did
22 to make sure that we were trying to reach every
23 possible school, because again we have to treat
24 everyone the same working in Government, so what I
25 did was I got a list from the division within MSDE

1 that communicates with non -- what we call nonpublic
2 schools. So anything that's not in the regular
3 public school system, we call it nonpublic. So I
4 got a list of all the schools that they communicate
5 with, and we sent an e-mail to all of those schools.
6 And it was hundreds and hundreds. I don't recall
7 exactly how many it was, but it was -- I don't know,
8 you know, many hundreds of schools. And we let them
9 know about the program and we let them know what the
10 requirements were and we gave them the link for the
11 application that they could share with their
12 parents. So that was the biggest thing that we did.
13 And then we did start having information meetings
14 and there were like different school associations
15 that would come to those meetings and individual
16 school principals would come to those meetings. But
17 that -- I don't remember when we started those
18 meetings, but I mean like we had to like boom, we
19 had to role out this application right away. So
20 kind of the first best thing we could do was reach
21 out to all of those schools with an e-mail to let
22 them know about the establishment of the program and
23 to please help us distribute the link to facilitate
24 applications.

25 Q. Did the -- because you're establishing

1 this thing and trying to get the application up
2 on -- I understand it was maybe a more primitive
3 software system initially, but because you're trying
4 to get that up so fast, did you have the schools
5 already agreed to participate or did you have
6 potential schools that families could select and
7 then go from there and work it out?

8 A. Okay, let me try to remember. That's
9 right, because, see, the schools -- the schools --
10 one piece of what had to be determined before funds
11 could be distributed, first the applicant household
12 had to be eligible from an income perspective. But
13 then the school had to be eligible also. So that's
14 right, we had to have -- so I've talked so far about
15 the application side. That's the household side for
16 parents and students. In the meantime we had to
17 communicate with schools about the requirements for
18 their eligibility to participate. And that kind of
19 had to go in tandem. We couldn't like wait. We had
20 to also be working on that. So, no, we didn't
21 preselect anybody, it was always a matter of us
22 figuring out what the requirement in the law was and
23 then implementing that and making sure that we had a
24 full, full list of everybody in the state who would
25 need that information. So we had -- it must have

1 been the same list of schools then, because that's
2 who I had to go to. I had to go to the division
3 within MSDE that communicates with the nonpublic
4 schools and use their list. And so we would have
5 had that type of communication with them too. We
6 really worked really hard to make sure we would
7 reach everybody. Because some of these schools are
8 really tiny, they just have like ten or 15 students
9 some of these schools. So they may -- we realized
10 they may not have been under the umbrella of some of
11 the big school associations, so we really had to --
12 we really had to be -- we had that in mind and we
13 really made sure that -- trying to make sure that
14 that list was what it should be so when we were
15 communicating, we were communicating to the whole
16 universe of potential participating schools.

17 Q. You had mentioned just a little bit ago
18 that, excuse me, that a number of schools had been
19 advocating for a program like BOOST for a long time.
20 What is the purpose or what was the purpose of
21 BOOST?

22 A. To provide funds for low income students
23 to attend nonpublic schools.

24 Q. Okay. And a lot of the nonpublic schools
25 had been, you said, lobbying for it for years and

1 years I think. Why did it takes years and years for
2 the legislature to create such a program, do you
3 know?

4 A. I don't know.

5 Q. Okay. And do you know if there were any
6 organizations that -- or folks who were opposing the
7 passage of a program like BOOST?

8 A. You know, I don't really travel in those
9 circles. As you can see, my mind is an
10 administrator. It does not matter who has -- who
11 was behind it and what their interests were, when it
12 becomes law, that's when it's part of my job. And
13 that's when it has to have my attention. So, yeah.

14 Q. So BOOST gets created, application goes
15 up, invitations go out to schools, things get going.
16 The program is kind of running. And then I think --
17 do you then over the course of that first year of
18 the program, do you kind of develop more established
19 processes. Because I know that you were just
20 explaining the first instance of it, things kind of
21 were on a short timeline?

22 A. I would say yes, the program continued to
23 evolve over the next two, two and a half years that
24 I administered it. So it was a little step here, a
25 little step there, little step here, little step

1 there. Finally, it took well over a year, maybe a
2 year and a half, I succeeded in having a vacant
3 position repurposed to help staff the BOOST program.
4 That's the position that Valerie is in. So prior to
5 that, Felicia and Jamie were on board -- let's see,
6 I got Felicia -- they were contractual status staff.
7 So you're not a permanent employee in that case,
8 you're just on a contract that gets -- can be
9 renewed year by year. So anyway, that's just an
10 example. There were many little things that
11 happened over time to better establish and
12 streamline and improve the efficiency of the
13 program. Again, I'm always looking at it from an
14 operations standpoint, operating it in accordance
15 with the requirements. And trying to make it as
16 efficient as possible since we were, you know,
17 didn't -- other states had four or five people
18 running these programs. So, yeah.

19 Q. Monica, do you remember when Valerie's
20 position came around, or came on board, roughly?

21 A. I think sometime in 2017.

22 Q. Okay.

23 A. When the position was repurposed, but it
24 was filled in -- I think it would have been filled
25 in 2018.

1 Q. Okay. Okay, I see what you're seeing.

2 A. Know what I mean. It was a vacant
3 position within MSDE that was within another
4 division, so I had to make a case that we were -- so
5 we really, really needed some more help to
6 administer this program, so I made a case and I was
7 granted a vacant position. But then all that
8 paperwork has to happen to get the vacant position
9 transferred over to business services and then we
10 have to do the recruitment. And recruitment usually
11 takes, you know, three, four, five months to go
12 through all of that. So I think it was 2018 before
13 Valerie actually filled the position.

14 Q. Okay.

15 A. The position was filled and Valerie was
16 the selected candidate.

17 Q. Okay. Well, let's -- okay. So you got
18 the program going now. Let's kind of zoom into more
19 of the relevant period of what's going on in this
20 matter. So it's 2017. Do you recall communications
21 about a school having -- the initial communications
22 about a school having potentially discriminatory
23 admissions policies coming to your attention?

24 A. I remember that the issue was raised by a
25 parent at a school. The issue was raised by a

1 parent at a school. I think it came to me in an
2 e-mail. I think it came to me in an e-mail. And
3 that's how it was raised. That was the first thing
4 that happened was contact from a parent at one of
5 the schools.

6 Q. Okay. Let's see, I think I might have a
7 document for that. Let's take a look and see if I
8 do. Do you remember if the parent had any kind of
9 professional affiliation?

10 A. I do not recall that. The only thing I
11 recall is I think the parent was part of the PTA at
12 the school, because she may have contacted me and
13 mentioned that. So she wouldn't -- she wouldn't
14 have been able to represent the whole PTA and her
15 concern, but I feel like she may have -- I don't
16 know. Somehow I feel like I learned that she was a
17 PTA member at the school. But, no, I never knew her
18 professional work. I don't know what her -- I don't
19 know what her profession was.

20 Q. Was this parent the parent of a BOOST
21 scholarship recipient, do you know?

22 A. I don't even know that. I don't even know
23 that.

24 Q. Okay. Let's see here. October of 2017 I
25 think. Let me see if I got that. That may not have

1 uploaded properly. Okay. Here we go. I'm going to
2 introduce an exhibit, but before I do, I think I
3 need to double check that we're not going to double
4 number it because that creates problems. It was
5 Felicia yesterday, right, Ann?

6 MS. SHERIDAN: Yeah, felicia was
7 yesterday. Yup.

8 MR. SCHMITT: Okay. So this should be
9 Exhibit 84. Sorry for the delay.

10 Q. Okay. Sorry about that, Monica. This is
11 the part that makes it take a long time. So I'm
12 going to share my screen with you. Okay. I'm going
13 to scroll down because of the way these print out.

14 A. Yeah.

15 Q. Well, let me -- sorry, I'll go through
16 this the right way. I've got an e-mail chain here,
17 and for the record I'm marking this Exhibit 84.

18 (Deposition Exhibit 84 marked.)

19 Q. And I don't know if you know this, this is
20 called a Bates stamp number. So this is something
21 lawyers put on documents to help keep track of them.
22 So it's called Bethel Defendants 1096.001 and it
23 continues on for four pages. Do you see all that?

24 A. Yes, I see it.

25 Q. Okay. Great. Okay. So I'm going to

1 scroll down the e-mail chain. And I see on -- do
2 you see this e-mail?

3 A. I do.

4 Q. So it looks like it was on May 9th of
5 2017. The VP for legislation, what I'm assuming is
6 at the Maryland PTA, MDPTA.org, e-mail Doctor
7 Grasmick; is that right?

8 A. That's what I'm seeing on that e-mail.

9 Q. And I think there is pleasantries in
10 there, some introductory stuff. And then it seems
11 like there she mentions this part. Could you go
12 ahead and read this highlighted portion here for me?

13 A. Okay. So I am reading -- so I am reading
14 the e-mail from the person who contacted Doctor
15 Grasmick, right?

16 Q. Yes. Yeah. We're just establishing what
17 happened before you got involved.

18 MS. SHERIDAN: Objection. The document
19 speaks for itself.

20 Q. You can answer.

21 A. I'm not sure -- I'm not sure what that
22 means I'm supposed to do.

23 MS. SHERIDAN: So Monica, you can -- you
24 can answer. I'm making objections for the
25 record. And the only time you should not

1 answer is if I instruct you not to answer.

2 A. Okay. Okay. Got it. Okay, so right, I
3 am reading from an e-mail that as we saw went from
4 someone to Doctor Grasmick. And it says, "I have no
5 doubts in my mind" -- so these are not my words.

6 Q. Right.

7 A. "I have no" -- okay. "I have no doubts in
8 my mind that there are some private institutions
9 that are receiving public funds are not" --
10 grammatical thing, sorry. "Public funds are not
11 living up to expectations when it comes to securing
12 the rights and freedoms of their students. Thus, I
13 am attaching a list of schools that receive BOOST
14 funding and on page four, the third to the last
15 school, is Trinity Lutheran School located here in
16 Harford County. I am also attaching page four and
17 five of that school's 2016-2017 parent student
18 handbook of the Trinity Lutheran Christian School
19 and Early Learning Center, parenthesis, formerly
20 referred to as Trinity Lutheran School, end parens."

21 Q. Okay. So do you recall then that Trinity
22 Lutheran was the school that had the initial
23 complaint lodged against it?

24 A. I think that was the first one. Is
25 that --

1 Q. Yeah, that's fine.

2 A. All right.

3 Q. To the best of your memory. You don't --

4 A. Yeah.

5 Q. You don't have to speculate. Or if
6 something is very obvious, there is no danger that
7 way. So anyway. Okay. So that was -- that was all
8 the way back in May. So now let's go up -- and
9 sorry, just so I can make a record. The person who
10 sent that e-mail to Doctor Grasmick was Marla
11 Posey-Moss, correct?

12 A. I see that on the e-mail, yes. I see that
13 she used a PTA e-mail address, so that's why the PTA
14 was in my mind.

15 Q. Okay. And let's go up -- it seems like
16 several months later you receive an e-mail on -- in
17 September 13th from Marla Posey-Moss. What does
18 Marla communicate to you there?

19 A. Okay. So I'm sorry, so did that e-mail go
20 from her to Doctor Grasmick but then some time went
21 by before something was sent?

22 Q. Yeah, it appears to me that the original
23 one was May 9th.

24 A. Okay.

25 Q. So then later in September what happens?

1 A. Okay. So that must have been when it
2 finally reached me. It looks like she e-mailed me
3 directly, yeah. That goes with what I recall.

4 Q. Okay. So do you recall did Doctor
5 Grasmick bring the issue to you?

6 A. I don't recall. Because let's see, there
7 would have been BOOST board meetings. I don't
8 recall anything before just one day, you know, in
9 all -- all within all my other e-mails I got an
10 e-mail about this issue. That's my recollection of
11 the first time I encountered the issue.

12 Q. Okay. And then it says "hello, Ms.
13 Kearns. Per our conversation I am forwarding you
14 the e-mail I sent to Doctor Grasmick." So it was --

15 A. Well, she must have called me.

16 Q. Yeah, okay. You don't have any
17 recollection of speaking with her?

18 A. I don't. I tell you I don't. But I must
19 have.

20 Q. Okay.

21 A. I must have. Okay. I thought it was an
22 e-mail. Maybe -- the e-mail is pretty long, so
23 maybe that's why that's stuck in my mind.

24 Q. Yeah, that's fine. That's fine. So then
25 you respond to her a few days later on

1 September 15th and ask for her handout for the board
2 meeting. So it appears that Ms. Posey-Moss is about
3 to address the BOOST board at one of its meetings;
4 is that correct?

5 A. That -- that makes sense with what I
6 recall, right. Because she probably called me and
7 asked me how do you -- how do you present a problem
8 to the BOOST board, or something -- you know, some
9 kind of concern, which we had other kinds of
10 concerns, by the way, brought directly from parents
11 to the BOOST board. They were more about like
12 whether or not somebody was eligible for the
13 program. So maybe that's another reason the phone
14 call didn't stick in my mind as much, maybe she was
15 more asking on the phone along the lines of how do
16 you convey a concern to the board. So that at that
17 time then my mind is, okay, we've got to do -- we've
18 got to make sure there is enough time scheduled at
19 the board meeting for any type of public comments.

20 Q. Okay.

21 A. And then, you know, the person has a
22 handout, I've got to get the handout ahead of time
23 and that kind of thing.

24 Q. Okay. Do you remember if you had had
25 public comments at the BOOST board before this

1 instance?

2 A. I don't remember if it was before this
3 instance or not. But I recall other public
4 comments, certainly written. I'm trying to remember
5 if there were other verbal public comments like from
6 a parent. Because there were always people from
7 certain school associations that were attending all
8 of the BOOST board meetings, and sometimes they
9 would have some type of comment. So that was not
10 necessarily unusual. It was more unusual to have
11 like just a parent contact me and say I have -- I
12 have something I need to tell the BOOST board. I do
13 recall another case that was at least in writing, I
14 don't remember if it was also verbal, about she
15 thought that her student was eligible. According to
16 the application information that she submitted, the
17 student was not eligible. So anyway. I don't
18 remember if it was before or after this. Again,
19 there were many meetings and many people having
20 things to say.

21 Q. Okay. Okay. You asked her then later on
22 October 10th, a follow-up, if she still wants to
23 make her public comment. She responds on the same
24 day, October 10, that, yes, she does. And she was a
25 little delayed on getting her materials to you

1 because she was, and I'm quoting now, "swamped with
2 Kirwin Commission work," end quote. Do you know
3 what the Kirwin Commission is or was?

4 A. I do.

5 Q. What is it?

6 A. The Kirwin Commission was a group that
7 considered -- a group that studied the Maryland
8 education system and developed recommendations for
9 legislators with their thoughts on improving
10 education in Maryland.

11 Q. Was it mostly focused on public school,
12 public education?

13 A. My understanding is it was, but I was not
14 directly involved in any Kirwin Commission work. So
15 if I heard something, that would be -- that would be
16 the thing you would hear about was that focus. They
17 met for a long time and they looked at a lot of
18 things, I know, so I don't know to what extent
19 non-public schools were a part of it.

20 Q. Okay. So she sends her materials
21 eventually. Okay. You guys -- it looks like the
22 rest of this is you're just figuring the logistics
23 of her giving public comment. So let me go to a
24 different thing then. We're looking around 10/10.
25 Okay. So this should be 85. Let's see if it works.

1 Okay. I'm going to share it. Monica, do you see
2 this document?

3 A. Yes.

4 Q. Okay. Do you see that it's on Maryland
5 PTA letterhead?

6 A. Yes, I see that.

7 Q. Okay. Do you see I marked it Exhibit 85
8 and it's Bethel Defendants 1056.001 and then
9 continues on to two more pages.

10 A. Yes.

11 (Deposition Exhibit 85 marked.)

12 Q. Okay. Do you see that it is signed by the
13 Maryland PTA?

14 A. I see that that's typed on the page but I
15 don't see anybody's handwriting as a signature
16 there.

17 Q. Right.

18 A. So. Okay. But, yeah, it's...

19 Q. Go ahead, I'm sorry.

20 A. Oh, no, I see that that's typed on the
21 page, yeah.

22 Q. I'm laughing -- sorry, I'm laughing
23 because I can hear the trucks out there so I know
24 what's about to start on my end. Okay. So do you
25 see it's dated October 11, 2017?

1 A. Yes.

2 Q. Okay. Have you seen this before today,
3 this document?

4 A. Possibly. I don't -- you know, since we
5 didn't develop it, I wouldn't have --

6 Q. Right. You can take a minute and
7 familiarize yourself with it if you would like. The
8 only thing I'm getting at is that these are the
9 public comments that she provided?

10 A. Okay. Yeah, again, we sure saw a lot of
11 e-mails and documents over time. So I don't
12 necessarily recall this being a public comment
13 document for a particular board meeting. But...

14 Q. Okay. Do you recall Ms. Posey-Moss or
15 anybody from the Maryland PTA giving you a document
16 for public comment?

17 A. When you were showing those e-mails where
18 I was corresponding with her about that, I kind of
19 recall that.

20 Q. Okay.

21 A. So...

22 Q. Great. And do you see that this document
23 is talking about the parent/student handbook of
24 Trinity Lutheran school?

25 A. Yes, I see that.

1 Q. Okay. So the complaint comes in for
2 Trinity Lutheran. Do you remember this ordeal kind
3 of starting?

4 A. I do, yes. Yes, I do.

5 Q. Okay. So what happened?

6 A. Yes, I do.

7 Q. What happens then?

8 A. I guess I'm not sure what you mean.

9 Q. Okay. I'll ask maybe a more specific
10 question. So the complaint comes to you and then
11 the board at that meeting in the fall of 2017. Can
12 you walk me through what occurred from that point on
13 once you've been made aware of the allegation of the
14 discriminatory policies at Trinity Lutheran?

15 A. I am not recalling a particular sequence,
16 but I can tell you that the -- the big moment for me
17 and my team was we, and I felt very strongly about
18 this because there was a -- there was a discussion
19 about this handbook and this school, but we can't
20 consider this in isolation. If this is being used
21 to determine whether this particular school -- if a
22 handbook is being used to determine whether a school
23 is eligible to participate, again, we have to treat
24 all the schools the same. So the big moment for us,
25 and I felt that it was important, then we need to

1 look at all school handbooks. So which you would --
2 so here we are assigning ourselves more work. So
3 that hurt. That hurt. But that's what had to be
4 done. That was what had to be done to administer
5 the program in accordance with the law and that was
6 my job. So that was -- again, I don't recall -- so
7 it must have come up at a board meeting, and I
8 really don't remember like what -- who -- what
9 discussions ensued. I'm sure the AG's office was
10 brought in then at that moment. You know, I don't
11 know. But for us, the big thing was handbook review
12 across the board, everybody.

13 Q. So before that point handbooks had not
14 been required to be submitted?

15 A. Correct.

16 Q. To participate for the BOOST program?

17 A. Correct. There was an assurance. We
18 wrote an assurance. The AG's office and me, we
19 worked together to write assurance language, and
20 that was part -- I talked about the application for
21 the -- the households, the parent and student. We
22 also had a way for the schools to kind of apply to
23 be in the program and there was -- there was
24 assurance language as part of that. And they had to
25 indicate that they complied with the assurance

1 language. So that was -- that was what was used.
2 So we put the BOOST law right in there, you know,
3 the BOOST law language right in there, and then the
4 school certified that they complied. So, correct,
5 before this time there was no handbook review.

6 Q. Okay. And did the assurances or when you
7 were communicating the law requirements to those
8 schools, did -- was there a requirement that the
9 schools adopt any particular nondiscrimination
10 language in their handbooks?

11 A. The BOOST law didn't refer to handbooks at
12 all.

13 Q. Okay. So the assurance was something that
14 was provided to the schools and they -- what would
15 they do, sign it and send it back, how did that
16 work?

17 A. Since it was electronic -- since it was
18 electronic, I don't remember if it was like a
19 checkbox and then they would type their name. It
20 was something like that. So -- or maybe we -- I
21 don't know. You know what, Paul, maybe we had them
22 print it and had the principal sign it. I'm sorry,
23 I don't remember. We did something that was legally
24 valid. You know, I made sure like we did something
25 that was legally valid to get the schools to agree

1 with that assurance language. And by the way, since
2 we, you know, just had a precious few people working
3 on this program, so we needed to do things
4 electronically, but there were people who needed to
5 do applications who didn't have computers and
6 schools who had technology issues. So we worked
7 with them as best we could.

8 Q. Okay.

9 A. And it was interesting because the schools
10 kind of helped each other too. You know, like they
11 were excited, they wanted to participate in the
12 program. So, anyway.

13 Q. It's a big deal for a lot of those
14 schools?

15 A. Yeah.

16 Q. Okay. So you see this one handbook and
17 you told me you felt very strongly if you were going
18 to review the handbook and use that as a standard
19 for one, it had to be a standard for everybody. So
20 at that point how many schools are participating in
21 BOOST?

22 A. I don't remember, Paul. I don't remember.

23 Q. Approximately. If you had to ballpark it,
24 what would it be?

25 A. A couple of hundred I want to say.

1 Q. I think that's right. I think it's about
2 180. I don't remember but --

3 A. Okay.

4 Q. Okay. So that's a lot of handbooks?

5 A. Yeah.

6 Q. So how do you go about -- you've talked
7 about your limited staff that you had. How do you
8 then embark on checking the handbooks for all these
9 schools?

10 A. So we first had to collect handbooks. And
11 so I think -- a number of schools keep their
12 handbooks online. So we could easily get those
13 handbooks when they were posted online. If they
14 were not posted online, we had to contact the school
15 and ask for the handbook. And I tell you what, at a
16 certain point I think I remember like -- like
17 thinking like we have to tell the schools what's
18 going on here and why we're asking for these
19 handbooks. Because some of them we could get from
20 online but others we have to ask for it. And by the
21 way, this whole thing with Trinity Lutheran was in
22 the front page of the newspaper several times. So I
23 think, I think, that I wrote -- when I wrote the
24 e-mail that we sent to the schools, I told them why
25 we were asking, you know. So I'm not trying to be

1 like, "oh, you know, hey, we just need your handbook
2 for just no apparent reason". You know. I think I
3 told them this is an issue so we are reviewing all
4 school's handbooks. Can you please send us your
5 handbook.

6 Q. Had you -- had you or your staff looked at
7 other school's handbooks before you kind of sent out
8 this notification that this process was starting?

9 A. No. I didn't. I don't imagine they did.
10 I don't -- I don't know if they did.

11 Q. What would -- what would you guys do or
12 your team do if a school didn't have a handbook at
13 all?

14 A. You know what, I think that came up in a
15 couple of cases. What happened there? I think a
16 couple of schools like kind of quickly made a
17 handbook. I feel like that happened. Because,
18 again, some of these schools are really small, ten,
19 15 students in the entire school. So I feel like --
20 I feel like there might have been a couple of cases
21 where they did it. I don't know how they went about
22 it, but I feel like there were a couple of cases
23 where the school had to actually had to kind of
24 develop a document and tell us here is our handbook.

25 Q. Okay. That makes sense. Okay.

1 A. All schools, Paul. All schools. That was
2 really important to me, can not be seen as not
3 applying the requirements fairly, consistently
4 across the board.

5 Q. Okay. So at that point who is on your
6 team when you have to start this handbook review
7 process or when you've got to collect them and that
8 kind of thing?

9 A. It's me and Felicia and Jamie.

10 Q. So the three of you. Would -- who looked
11 at -- so did all three of you look at all 180 or 200
12 or however many there are handbooks for all these
13 BOOST schools. Or was the work divvied up?

14 A. It was divvied up.

15 Q. And do you remember if there was any
16 particular assignment one way or the other?

17 A. I don't. We probably sorted the schools
18 alphabetically by name, cut it in half. Felicia
19 took one half, Jamie took the other half. And I
20 really -- I could see what an important issue this
21 was. So I just want to assure you and everyone, I
22 just did not leave Felicia and Jamie off in a vacuum
23 to do this work without me. I reviewed a number of
24 handbooks myself, because I just wanted to see like
25 what do the handbooks look like, what are we talking

1 about here, this handbook business. So I looked at
2 probably -- I didn't count. I probably looked at
3 least 30 handbooks myself, scroll, scroll, scroll,
4 scroll through every page start to finish. Because,
5 again, I -- it is not fair for Felicia and Jamie as
6 staff of a team at a big state agency to be on the
7 hot seat for this kind of work. So of course I
8 don't think it was fair for me either. But, hey,
9 I'm in charge, I'm getting paid to be in charge of
10 this thing, so by God, here I am. All right, this
11 is what the job is at this moment, we'll do this
12 job, how do we do this job. Okay. So I just want
13 to assure you and anybody that I would never do that
14 to my team. And so I was -- and any time they ever
15 saw anything that they had a question about, the
16 three of us would get together and pow-wow and be
17 like, huh, okay, does this go on the list we give
18 the AG's office. If there was any question in any
19 of our minds, yes, we put it on the list. And we
20 were just identifying and raising questions.

21 Q. Okay. Why did you think it was not fair
22 for yourself or your team to be put in this
23 position?

24 A. Because it was very clear to me what a
25 contentious issue this is. And we are State

1 employees in a business services division of a big
2 state agency. How did we get here. How did we get
3 in this role. We're in a business services
4 division. We process invoices, we handle
5 procurements, we do financial reporting, and look
6 what we're doing today. How does that reconcile.
7 So anyway, that's just -- but, again, that was the
8 job that day.

9 Q. Okay. I understand. I've had a lot of
10 those jobs in my life. What about -- okay, so you
11 reviewed at least we will say 30 handbooks. Would
12 you review the ones that Felicia and Jamie flagged
13 or would you randomly review, pick 30 handbooks to
14 review, or how did that work?

15 A. I did not only review the handbooks that
16 they flagged because I -- again, I spent time at the
17 beginning with them. Now they -- I think we -- I
18 seriously do think we just like sorted the list and
19 divided it in half and they each did their review.
20 But I started doing review at the same time, just
21 kind of random review. Because, again, I just
22 wanted to see what do these -- what are they like,
23 what are these handbooks like. And it was just
24 interesting because a lot of them were really
25 similar so you could tell. Like if there was a

1 certain type of school, they clearly shared
2 information with each other and they kind of all had
3 the same handbook. So -- but then other people's
4 handbooks were much, much thicker than that and
5 others were pretty small. And so I did my own
6 review not only going from things they flagged just
7 so I could get a sense of what these documents were
8 like.

9 Q. And you just -- did you just pick the
10 schools and the handbooks at random that you
11 reviewed?

12 A. I want to say yes. I mean I probably
13 would have picked some from a -- a couple few from
14 the beginning of the list, couple from the middle of
15 the list, couple few toward the end of the list.

16 Q. Okay.

17 A. Like I could tell -- like after I reviewed
18 like a couple of the Catholic handbooks, I was like,
19 oh, gees, these are pretty much all the same, so I
20 don't know how many more of these Catholic ones I
21 need to review my own eyes. Again, to build up my
22 knowledge, familiarity, because they were like
23 seriously cookie cutter all the same. So I
24 probably -- probably did not review, if that was
25 kind of in my random selections, whatever I had

1 going there, I made sure it wouldn't be too many
2 Catholic ones for example.

3 Q. Okay. So -- and I have looked at lot of
4 these handbooks myself at this point. So you
5 mentioned you were going through, scrolling through
6 all the pages. Did you ever -- well, I guess my
7 question is for your team, what were you guys
8 working off of. Did you have -- did you have a set
9 of things you were looking for, were there
10 guidelines. What did you use to conduct your
11 initial review?

12 A. We had -- since the BOOST law talked about
13 admissions, that you can't discriminate in
14 admissions, we would look at the -- we would make
15 sure to read whatever the handbook said about
16 admissions. So that was -- that happened. But
17 sometimes there was not like a clear admissions
18 section so you ended up having to kind of read
19 through -- really we would just kind of have to read
20 through the whole thing then because there would be
21 mentions of student conduct and things like that in
22 other -- like in all kinds of various parts of the
23 document. And so you ended up just needing to
24 really review the whole thing. We did come up with
25 like search terms. I don't remember what they were.

1 But a lot of times we would scroll through the whole
2 document.

3 Q. Okay. Do you remember any of the search
4 terms that you used?

5 A. I don't. I don't. I just -- we spent a
6 lot of time on this. We spent a lot of time on
7 this. If there was any -- if there was an
8 admissions policy and it was clear-cut right there
9 in the book, its very own section, that was easy,
10 you know. But there were just a lot of cases where
11 that was not the deal. And so probably admission
12 would have been one search term. But beyond that, I
13 don't -- I don't recall.

14 Q. So the -- this is all going on in response
15 to a claim of sexual -- potential sexual orientation
16 discrimination. Were you and your staff also
17 looking for like racial discrimination or anything
18 like that?

19 A. No.

20 Q. Okay. And when you're saying search
21 terms, are you using like find function if you're
22 looking at these things on a computer or how does
23 that work?

24 A. Yup, control F. Now, you mentioned racial
25 discrimination. I mean the prompting of the

1 handbook review was the Trinity Lutheran example
2 about sexual -- the sexual orientation language in
3 the BOOST law. But I tell you what, we spent so
4 much time reviewing handbooks, I feel like maybe
5 Felicia or Jamie may have found an example of
6 some -- if we would have found an example of some
7 other type of discrimination listed in the law, we
8 would have brought that up, Paul. I'm sure of it.
9 Because, again, our mind is -- so, no, we weren't
10 like looking for it, but we always knew the thing --
11 again, day one, the thing that we had was the budget
12 bill language, which is law for one year at a time.
13 That's how we had to run the program. And there
14 were other categories of, you know -- there were
15 other categories on which you could not
16 discriminate. So if we had come across something,
17 that would have gone on our list.

18 Q. Okay. Let me see, I might have the
19 Trinity Lutheran thing here. Let's see if I can
20 find it. Give me one second. Well, I don't
21 actually have it. It might take me a minute to get
22 it. So I'll just ask. So because Trinity Lutheran
23 had language as I recall -- well, do you recall what
24 the language was in Trinity Lutheran's handbook that
25 was at issue?

1 A. Ann showed it to me the other day when we
2 were talking to prepare.

3 Q. Yeah, okay.

4 A. So since then, I mean I can't recite it
5 for you. But...

6 MS. SHERIDAN: Paul, can I suggest that we
7 take a break and you can find that and show --
8 I think it would be more fair to Monica to
9 actually show it to her. And this might be a
10 good breaking time anyway.

11 MR. SCHMITT: Well, yeah, okay. That's
12 fine. We can do that.

13 VIDEOGRAPHER: Off the video record --
14 sorry.

15 MR. SCHMITT: Go ahead, sorry.

16 VIDEOGRAPHER: Off the record at
17 10:49 a.m.

18 (Short break was taken.)

19 VIDEOGRAPHER: This is the beginning of
20 media unit number two. We're back on the video
21 record at 11:03 a.m.

22 BY MR. SCHMITT:

23 Q. Okay. Thanks everybody for taking a
24 break. I was looking for a particular handbook and
25 I don't have it. So what I'm going to do is I've

1 got something else that will work. This was
2 previously marked Exhibit 47. Let's see here. And
3 Monica, can you hear and see me and all that stuff?

4 A. Yes, I can hear and see you.

5 Q. Great. Okay. So do you see a document
6 here?

7 A. Yes.

8 Q. Okay. I think it's five pages. Let's
9 see, I'm going to zoom in. And it is -- I've marked
10 it Exhibit 47. Also has a Bates stamp of Bethel
11 Defendants 1788 on there?

12 A. Yes.

13 Q. All right. So have you ever seen this
14 document before?

15 A. I think so.

16 Q. Okay. Did you create this document do you
17 think?

18 A. I may have. I may have.

19 Q. And I'm just kind of scrolling through
20 right now to give you a view of.

21 A. I don't think I did all this yellow
22 highlighting. But my team and I, you know, would do
23 screen snips or save PDF pages from handbooks and
24 then we would paste those into a Word document and,
25 you know, indicate which school it was and the page

1 number. And so we had to compile a document like
2 that to get to the AG's office. And then I remember
3 further on in the process I think I had to put
4 something together like this just to compile the
5 examples and discussion as all of this progressed.
6 I thought we did screen -- it certainly started out
7 as screen snips though and this is like typed. So I
8 don't know.

9 Q. Okay. Well, I think I've got -- maybe
10 we can move on after this. I know I've got Trinity
11 Lutheran's language on this document. I'll move on
12 to a different one that has the screen snips in a
13 minute.

14 A. Okay.

15 Q. But do you recognize the listing of
16 Trinity Lutheran at the top of this document?

17 A. I see that listed there, yes.

18 Q. Okay. Why don't you go ahead and take a
19 second and just read through that.

20 A. Okay.

21 Q. Do you remember -- I know you said you
22 didn't do the highlighting on this particular
23 document necessarily, but do you remember what --
24 what the problematic part of Trinity Lutheran's
25 handbook was based on this?

1 A. It's talking about admissions. So this is
2 referring to the school's admissions. And one of
3 the statuses -- one of the categories in the BOOST
4 law that says you can't discriminate upon is sexual
5 orientation. And so the reference to homosexual
6 lifestyle in here would have been something that
7 would have -- Jamie and Felicia and I would have put
8 that one then on the list for AG review.

9 Q. Okay. And then it says underneath that
10 "revised." Do you see?

11 A. I do see that.

12 Q. Okay. Do you recall whether or not
13 Trinity Lutheran changed its handbook language
14 after -- after the PTA complaint and you guys
15 followed up?

16 A. I recall that -- I recall that happening.
17 I don't remember if it was just -- I don't remember
18 if it was Trinity Lutheran or if it was another
19 school or if it was more than one, but that rings a
20 bell.

21 Q. Okay.

22 A. A school or schools would actually revise
23 their handbooks so they could participate in BOOST.

24 Q. Let me pull up a different one. So
25 this -- excuse me. Sorry, guys. This should be

1 Exhibit 86. Okay.

2 (Deposition Exhibit 86 marked.)

3 Q. All right. Sorry, it's got the spin wheel
4 going here. Let me share again. We have got one of
5 those old "to whom it may concern" letters going on
6 here. So I've got Exhibit 86 and it is Bates
7 stamped Bethel Gallagher 0164. Do you see that?

8 A. I see that.

9 Q. And it appears to be a collection of
10 letters on Trinity Lutheran letterhead. The first
11 letter is October 4th of 2017. Second one is
12 October 6 of 2017. And then there is a third letter
13 at the bottom from October 11th of 2017. Do you see
14 that?

15 A. I see it.

16 Q. Okay. Do you see that the third letter is
17 addressed to you?

18 A. I do see that.

19 Q. Okay. Go ahead and do you recall this
20 letter or -- off the top of your head?

21 A. Not off the top of my head.

22 Q. Okay. Go ahead and take a minute, read
23 through it. If you need me to scroll or zoom or
24 anything.

25 A. Okay.

1 Q. You don't have to read it out loud, but if
2 you just want to familiarize yourself.

3 A. Okay. Is there more I need to look at?
4 Okay.

5 Q. And then I'll scroll up to the one above
6 it. This is on .0002?

7 A. Geez, this is just something else. Okay.
8 I see it.

9 Q. Okay. What's going on -- well, actually
10 before I do that. Okay. I'll go back up to the
11 top, .0001, second on that.

12 A. Okay.

13 Q. So based on what I've shown you here,
14 what's going on here?

15 A. Okay. So it looks like what you were
16 referring to with -- okay, the decision. So, again,
17 our team compiled information for AG office review.
18 AG reviewed it. Then the BOOST board met and
19 reviewed the information with handbook -- with
20 language from handbooks. And a decision was made
21 that certain schools could not participate because
22 of language in their handbooks. And, again, I do
23 recall there being at least one case where a school
24 revised its handbook and resubmitted it. And the
25 resubmitted handbook met the BOOST law and the

1 school got back in the program.

2 Q. Okay. So are these -- because these are
3 from October of 2017. So that would be before, as I
4 understand it, the larger handbook review, correct?

5 A. Gosh, I don't know. Maybe. It was just
6 all happening -- we were trying to work quickly. I
7 don't really recall how that all happened.

8 Q. Right. But these appear to be letters,
9 one of them addressed to you where Trinity Lutheran
10 is amending its handbook and trying to get
11 reconsideration for BOOST, right?

12 A. Right. Right.

13 Q. Okay. Let's go down to you were talking
14 about the snippets?

15 A. Yeah.

16 Q. We'll just do this one real quick. I'm
17 bringing what previously has been Exhibit 31. Do
18 you see this?

19 A. Yes, I see it.

20 Q. This is House Bill 150 from fiscal year
21 2018. You see that it's marked as Exhibit 31?

22 A. Yes.

23 Q. Okay. And then we were talking about the
24 BOOST law and the BOOST program requirements. Okay.
25 Where did that go. Here we go. Okay. So do you

1 see, I'm on what's Bates stamped as 0061. This
2 previously was in Bethel's motion for preliminary
3 injunction as Exhibit 2. Do you see on this page
4 it's got subsection of the law titled R00A03.05,
5 broadening options and opportunities for students
6 today.

7 A. Yes. That's actually the budget code.
8 Because this is the budget bill. And so the funding
9 is allocated according to agency code and program
10 code within agency. So, sorry, that's actually my
11 wheelhouse. Now, as soon as you get past the
12 R00A03.05, no, then you guys take it away. So see,
13 that's the big thing I can contribute to everyone's
14 knowledge today. That's not a statute code, that's
15 a budget code.

16 Q. Great. So it's got the budget code there.
17 I'm going to scroll down. Do you see this
18 subsection one, it says "to be eligible to
19 participate in BOOST, a non-public school must" and
20 it's got a number of requirements listed in
21 subsections underneath there?

22 A. Yes.

23 Q. Okay. Do you see subsection D?

24 A. D as in dog, yes.

25 Q. Yeah. Okay. Just take a second to look

1 at that and get familiar with it.

2 A. Okay.

3 Q. Do you recall that this was the
4 nondiscrimination requirement from 2017/2018?

5 A. Yes.

6 Q. Okay. I told you I was going to ask you a
7 lot of questions like that. So that's just that.

8 A. Sure.

9 Q. Where did that go. Okay. Sorry, there is
10 so many exhibits at this point that it's hard to
11 keep track of them. And I didn't have this one in
12 my folder which is why I was struggling. Let me at
13 least see if I can just drag and drop it. Yes, I
14 think this is going to work. Okay. I'm going to
15 share again. So this is previously marked
16 Exhibit 59. It's got a Bethel defendants Bates
17 stamp of 3526 on the bottom. Do you see that?

18 A. Yes.

19 Q. Okay. And I've got a letter here -- well,
20 a number of documents, 22 pages, that I've got a
21 letter at the top that is on MSDE letterhead
22 addressed to Arundel Christian School. Do you see
23 that?

24 A. I see it.

25 Q. Okay. And do you see it seems like it's

1 got a snip or a screen shot included in the letter.

2 Do you see that?

3 A. Yes.

4 Q. Okay. And is that your signature on the
5 second page of the letter?

6 A. Yes.

7 Q. Okay. Do you recall this or letters like
8 this?

9 A. I recall letters like that, yes.

10 Q. You don't recall the one specifically to
11 Arundel?

12 A. Let's see, this one, this is -- "as a
13 follow-up to the assurance, we requested copies of
14 the handbook by your school." Okay. Contains a
15 statements that raised some questions. Okay. I
16 recall this.

17 Q. Okay. So at this point -- so this is from
18 March of 2018. So you guys had been going through
19 handbooks and identifying language. And you were
20 telling me about kind of just going through and
21 searching for things that -- in the wake of Trinity.
22 I'm going to go through, and do you know if the
23 highlights are original to you on here or if they
24 were added later?

25 A. Those could have -- I really like that

1 part of the sniping tool, so that could have been
2 me.

3 Q. Okay.

4 A. Have people zoom in, you know, yeah.

5 Q. So -- okay. Let me back up a second.
6 Jamie and Felicia are flagging things. You said
7 earlier you didn't want to leave them alone so you
8 worked with them too on that. So if a -- if a
9 school got a letter, presumably is this a handbook
10 you had reviewed at some point?

11 A. Anything that reached this kind of
12 level -- so there was like the initial review. And
13 then if anything ended up on a list for the AG's
14 office, I reviewed that myself also. So, you know,
15 we talked about I kind of did my own review, just my
16 own random review, to become familiar with what the
17 handbooks looked like. As the process went on and
18 there were handbooks that continued on in the
19 process of trying to, you know, escalating it to the
20 AG's office, and then it went to the board, yes, I
21 looked at those.

22 Q. Okay. Did the board ever see handbooks
23 that had not been flagged by your team?

24 A. I don't know.

25 Q. But the board wouldn't have done its own

1 independent handbook review, right?

2 A. I do not believe the board did anything
3 like what we did because we decided to review them
4 all. So it's possible that some board members
5 looked at some handbooks on their own. I wouldn't
6 have been surprised actually to hear that. I don't
7 know if they did, but I wouldn't be surprised
8 because there were a few board members on the board
9 who put quite a bit of time into their roles on this
10 board. And I remember them coming to meetings, you
11 know, and they had done research on some kind of
12 topic and they would bring documents and things to
13 the board. It wasn't about this topic, it was about
14 other topics, things like -- what would it have been
15 about. I don't know, special education children or
16 something like that. But I wouldn't be surprised if
17 some of the board members had done some of their own
18 work on this issue. I wouldn't be surprised about
19 it, but I don't personally know whether they did.

20 Q. Which board members were the ones who were
21 more active on the board or interested in a more
22 active level from your observation?

23 A. Linda Eberhart was very involved in a lot
24 of -- she would do her own independent research on
25 issues. She really liked to do that, to kind of dig

1 in and do her own independent research. That's the
2 person I remember bringing -- actually bringing
3 documents to the board. But there were others who I
4 know were very involved in doing their own -- yeah,
5 I couldn't say anybody else really stands out as
6 much as Linda Eberhart as far as digging in on
7 issues and bringing her own documents. Again, any
8 time there was something like documents, that's
9 logistics and that's me and my team, and that stuff
10 stands out a little more. But I'm telling you those
11 board meetings were long. They were long. And
12 there were a lot of them. And the board members all
13 had a lot of things to say. And they made sure that
14 they were deliberative about and dug in on the
15 issues. So I don't know. That's what I know about
16 it.

17 Q. Okay. Well, let's go through -- let's go
18 through some of these handbooks. So for Arundel
19 here, which is on 35 -- Bethel defendants 2536.001
20 what was -- and if you need to take a minute to
21 review it, go ahead. What was the language that got
22 flagged as needing more information?

23 A. The language that got flagged is "each
24 student history is individually reviewed." So we're
25 looking at guidelines for accepting students. So

1 that tells us we're looking in an admissions
2 section, and student -- okay, so then it goes on.
3 "Students who engage in any of the following will
4 not be admitted." I would have highlighted that
5 because it's a lead-in to what's highlighted in
6 yellow below out of the list, "engaging in sexual
7 activity inconsistent with scriptural teaching." So
8 the phrase sexual activity is, you know, we were
9 talking about sexual orientation. And so that's --
10 that's why that would have been on the list.

11 Q. Okay. Let's go down to -- the next one is
12 actually Bethel 3526.003. Okay. What in Bethel's
13 handbook would have been flagged?

14 A. The -- let's see. So statement of
15 nondiscrimination. Okay. So up in the first
16 paragraph they are talking about the categories upon
17 which they do not discriminate. But as we know, the
18 BOOST law includes more than what this school is
19 including in its paragraph about, you know,
20 categories upon which they do not discriminate. So
21 you see they do not discriminate on the basis of
22 race, color, national and ethnic origin, but they
23 don't say anything about sexual orientation in
24 there. And so then when you read -- so see, that
25 then asks the questions, what about that category.

1 And then in the next paragraph that's what would
2 have raised the question, because then the question
3 is does this next category reconcile with the
4 requirement to not discriminate in sexual
5 orientation, because this is talking about a
6 covenant between one man and one woman.

7 Q. Okay. And did -- just to be clear, did
8 the BOOST law require schools in order to
9 participate to include certain nondiscrimination
10 language in their handbook?

11 A. The BOOST law did not specifically refer
12 to handbooks.

13 Q. Okay. So -- so it's -- okay. So that's
14 Bethel. Now I'm down at it looks like Cathedral
15 Christian Academy. And this is 3526005. And go
16 ahead and take a minute to get familiar with this
17 one.

18 A. Okay. All right. Is there more -- is
19 there more. Do we need to scroll down? Just a
20 little bit. Okay.

21 Q. Yeah, it doesn't appear to me that there's
22 another snippet below. Just what's quoting the law?

23 A. Yeah, yeah.

24 Q. Go ahead.

25 A. I was just going to say I think that black

1 bar is the page break.

2 Q. Oh, yeah. So what would have been the
3 language that got -- that raised an issue for
4 Cathedral?

5 A. I'm looking -- sometimes I'm not looking
6 at the laptop but my bigger screen here to read it.

7 Q. Sure, that's fine.

8 A. Okay. We will -- okay. Requirements.
9 Okay, first of all -- first of all, backing up for a
10 second, the heading on this screen snip is
11 requirements. And the first sentence there talks
12 about requirements for admissions. Okay. So
13 that's -- because, again, the BOOST law talked about
14 you can not discriminate in admissions. So this is
15 talking about requirements for admissions. And then
16 there is a reference to biblical values and
17 lifestyles. And this was -- this was, see Paul, you
18 see the situation we were in. Because what you saw,
19 and you've seen this now when you look at the
20 handbooks. And if you look at enough of them, what
21 you'll notice is things where in -- perhaps in the
22 admissions section or another one section of the
23 handbook it will just say biblical values, or
24 something like that. By the way, there were many
25 Jewish schools and some Muslim schools in the

1 program when I was administering it. So these
2 examples we're looking at are Christian schools but
3 there were many, many kinds of religious schools
4 participating in BOOST, and as far as I know still
5 are. So different religions. So -- and, again, we
6 reviewed all their handbooks. But back to what I
7 was saying, in one part of the handbook it may just
8 say biblical values and another part of the handbook
9 it will say biblical values and then it will list
10 out what those biblical values are. And those
11 biblical values often would say explicitly, you
12 know, something about, you know, sexual orientation,
13 no homosexual behavior, or something like that. And
14 so that was a question that my team and I had for
15 the AG's office is so -- again, we're reviewing the
16 entire documents in many, many cases. Maybe --
17 yeah, so anyway. So -- but the BOOST law talks
18 about admissions. So that's the -- that's the first
19 place we look. But there can be terms in the
20 admissions section that are further explained and
21 flushed out in another section of the document. So
22 to what degree do we -- do we use that as a criteria
23 for putting it on the list to get to the AG's
24 office. So since we wanted to cast a very broad net
25 and show that we did a very thorough review across

1 the board, we would include examples like that in
2 what we gave to the AG's office. Because what do
3 you do? We didn't know. Do you only look -- and
4 again, all of this is so weird because we're just
5 talking about admissions and we're just -- then
6 we're just talking about admission statements in
7 handbooks. And that ended up being the criteria
8 that everything hinged on. So anyway, that was --
9 that was a question for us. That was one of those
10 things that was not -- it was just not an easy thing
11 to deal with. And actually I don't really remember
12 what the AG's office ended up telling us.

13 MS. SHERIDAN: And I would instruct you
14 not to reveal any communication, specific
15 communications, between you and the Attorney
16 General's office.

17 A. Yeah.

18 MS. SHERIDAN: Because those are
19 privileged communications.

20 A. Yeah.

21 MS. SHERIDAN: Don't go into any
22 specifics. You can talk about what people's
23 roles are, but don't go into any specifics,
24 please.

25 A. Got it. Sure. I mean kind of the letters

1 show what -- how we carried on. So...

2 Q. Okay. Let's go down to Elvation. And
3 this is Bethel defendants 3526 and it starts at 007
4 and then goes into 008 for the snipping of the
5 handbook portions. Monica, go ahead and take a
6 second and look at this one and we'll scroll down
7 when you're ready.

8 A. Parents/guardian statement of support.
9 Okay. So see, this is talking about a personal
10 interview. This must be out of an admissions
11 section, it looks like to me. Okay. All right.
12 Right. Then this is a statement of doctrinal
13 beliefs. Okay. The home -- okay. All right.

14 Q. So I think that we covered all the
15 relevant handbook portions. With respect to
16 Elvation, which I think is in Millersville, what
17 were the things that drew concern for you here?

18 A. So this -- this is from an admissions
19 section, so that's where we would need to look.
20 Yeah, see that phrase, statement of doctrinal
21 beliefs, and then can you scroll down for me, sorry.
22 Okay. And then here you have the statement of
23 doctrinal beliefs. Okay. So see, this is an
24 example of -- okay -- can we scroll down a little
25 bit. I'm sorry, can we scroll. Okay. Okay. Well,

1 I'm just not seeing the language in there that was
2 like in the language of the other ones. You know,
3 my mind is not like in the thick of it like it was
4 at the time. We must have had a question about it.

5 Q. Based on what you're reading here, what
6 would the question have been?

7 MS. SHERIDAN: Objection.

8 Q. You can answer.

9 MS. SHERIDAN: Calls for speculation.

10 Monica, I made an objection for the record.

11 A. Okay. Sorry, you told me that. I just --
12 I'm sorry, Paul, I just -- nothing is jumping out at
13 me like the other ones did. So, again, this was
14 after so many hours of handbook review. If we
15 had -- if we saw anything where we had any
16 questions, then we would put it in the document to
17 send to the AG's office. So nothing is jumping out
18 at me on this one.

19 Q. Okay. So just -- I'm going to read in for
20 the record Elvations -- got a parent/guardian
21 statement of support, right?

22 A. Right. Doesn't that look like it's from
23 an admissions section though because they are
24 talking about the interview and committing to, you
25 know, the schools -- the school's expectations.

1 Q. Right.

2 A. So.

3 Q. It might be -- yeah, I've seen some
4 schools have collateral documents along with their
5 handbook or something that relate to admissions. So
6 it might be that. So this is on Bethel defendants
7 3526.007. So on the statement of support it says on
8 bullet point 2, "we are willing to have our children
9 educated in accordance with the statement of
10 doctrinal beliefs of the school." And then bullet
11 point 13 says "the school reserves the right to
12 dismiss any student when either the parents,
13 guardians or the student does not cooperate with the
14 policies of the school." And then the next snippet,
15 am I right, on 3526.008 is a snippet from the
16 statement of doctrinal beliefs?

17 A. Right, yes.

18 Q. Okay. And then statement one, which is
19 highlighted, says "the scriptures. We believe that
20 the entire Bible, all 66 books of the combined old
21 and new Testament are verbally inspired by God and
22 are inerrant in the original writings. Through the
23 Providence of God, the word of God has been
24 protected and preserved. And is the only infallible
25 and authoritative rule of faith and practice." And

1 it quotes second Timothy, Chapter three, verses 16
2 and 17, and second Peter, Chapter one, verses 20 and
3 21. Is that right?

4 A. That's right.

5 Q. Okay. And the other highlighted portion
6 from the statement of doctrinal beliefs is number
7 ten, it's entitled The Home. And it says, "in
8 addition to these important beliefs, we also believe
9 that God has given the parents and the home the
10 responsibility to bring up their children in the
11 nurture and admonition of the Lord", quoting
12 Ephesians Chapter six, verse four, and Providence
13 Chapter 22, verse six. Then it says, "we believe
14 that a consistent and whole education will occur
15 when home, church and school work closely together
16 during agreement -- and are in agreement" -- excuse
17 me, "on the basic concepts of life." Is that
18 correct?

19 A. That's correct.

20 Q. Okay. Take just another second and let's
21 just take a look at the statement of doctrinal
22 beliefs and just go through the non-highlighted
23 portions for me, okay. You don't have to read it,
24 read it out loud. Just familiarize yourself with
25 it?

1 A. All right. Okay.

2 Q. Got it.

3 A. Yeah.

4 Q. Do you see anything in here, Monica, about
5 homosexuality?

6 A. I am not seeing that, no.

7 Q. Okay.

8 A. But see, you know what, there are these
9 Bible verses referred to. See, that's by reference.
10 Just like in the admissions section, it talked about
11 the doctrinal beliefs by reference. So then we
12 would go look at the doctrinal beliefs and then
13 these doctrinal beliefs have references. So I don't
14 know that we actually would look up. I can't
15 remember. But seriously that was a question that we
16 had is like what -- we are trying to review
17 documents. To what extent does this review go?
18 Like we said, we're talking about a couple hundred
19 documents here, books. That was a question we had.
20 So to me this document may not tell the whole -- it
21 may or may not tell the whole story.

22 Q. Got it. Yeah. And I'm Catholic so I
23 couldn't even tell you what all these verses refer
24 to exactly, but I know -- I've probably laid eyes on
25 them at some point.

1 A. I'm going to tell your priest. You're
2 going to get in trouble. I'm just kidding. My
3 husband is Catholic, so yeah.

4 Q. Let's -- okay. What was I going to do.
5 Yeah, we were going to keep on trucking. Let's look
6 at Grace Christian Academy in Waldorf, Maryland.
7 And I'll scroll down to the snip of the quoted
8 handbook material. Go ahead and take a minute to
9 look at that?

10 A. All right. Okay. All right. Got it.
11 And it mentions, yeah. Okay. Yup.

12 Q. So what would have been the issue for --
13 what was -- excuse me, what was the issue for Grace
14 Christian?

15 A. Okay. So this one jumps out at me a
16 little more clearly with what's actually on the page
17 here, not just mentioned in reference. If you
18 scroll down a little bit. We probably did the snips
19 in the order in which they appeared in the book.
20 But here's the admission procedures. And then so it
21 says in number five, "you read the student/parent
22 manual and agree to support the guidelines
23 presented." So then can you scroll up, please. So
24 then we've got a snip that talks about the -- I'm
25 sorry, can you scroll down again. What did they

1 call it, the student/parent conduct -- the
2 student/parent manual. Okay, the student/parent
3 manual. So then can you, sorry, scroll up. So then
4 there is a bullet point here, and it refers to --
5 toward the end, it says "God intends sexual intimacy
6 to occur only between a man and woman who are
7 married to each other." And then there is a
8 biblical references. "And that sexual intimacy
9 outside of marriage, including adultery,
10 fornication, rape, homosexual behavior, bisexual
11 conduct, bestiality, incest, and the use of
12 pornography, is sin." So the homosexual behavior in
13 our minds would have been a reason to include that
14 in the document to send to the AG's office.

15 Q. And then what -- do you know what -- it
16 says this statement, I'm reading from your letter on
17 Bethel defendants 3526.010, it says "the statement
18 in your handbook says the following" and then it's
19 got that snip there, right?

20 A. Right.

21 Q. So what is the first phrase in both of the
22 two -- bullet points that are included in there?

23 A. The phrase in both. So "we believe."
24 That's your point, right, "we believe."

25 Q. Right. So do you think this came from

1 their section of their statement of faith based on
2 that?

3 MS. SHERIDAN: Objection.

4 Q. You can answer?

5 A. I don't know. I didn't include the
6 heading on that one.

7 Q. Okay. Let's keep trucking. Let's see.
8 We don't have to go through all this because it will
9 take a while. Let's see, I think this is Mount
10 Aetna. Yeah, Mount Aetna on Bethel defendants 3526.
11 Okay. Go ahead and take a look at that one.

12 A. Right. Right.

13 Q. So what was problematic for Mount Aetna?

14 A. The BOOST law refers to sexual orientation
15 as a protected category. And so any time we saw
16 language that seemed to refer to sexual orientation,
17 again, because our role is to administer the program
18 in accordance with the BOOST law, so we're not
19 making any personal judgment calls here, the BOOST
20 law says that there can not be discrimination in
21 admissions on the following -- you know, these
22 categories, and sexual orientation is one of the
23 categories. So anything that appeared that it even
24 could refer to that, we put it on the list. Because
25 seriously, we did not want to be the ones held

1 responsible for making judgment calls. That's not
2 our role. Now, unfortunately our role did involve
3 this handbook review. Because we're talking about a
4 couple hundred schools, the program was assigned to
5 me, so what else do we do? We have to review the
6 handbooks. What do you do, you look at the BOOST
7 law and you review the handbooks according to that
8 the best you can. So that's what we did.

9 Q. Okay. So -- okay. So I understand that's
10 your process. You were talking about how the BOOST
11 law said, you know, you can't discriminate in
12 admissions. What was the -- what was the language
13 here in Mount Aetna's handbook that drew concern?

14 A. Sexual conduct. A reference to sexual
15 conduct. Again, it doesn't say -- it doesn't --
16 that's what the language says there. But so I don't
17 know.

18 Q. Right.

19 A. Improper sexual conduct. Is this one of
20 the letters where we asked them to further explain?

21 Q. Yes.

22 A. Okay. So you see, that was -- we're like,
23 please, somebody else weigh in here. We're
24 looking -- we're looking for anything possible,
25 casting a very, very, very broad net. Very broad

1 net. Brought that to the AG's office. Then it went
2 to the board. And anything that shook out of those
3 two groups, in some cases the decision was, well, we
4 need the school to provide us some more information.

5 Q. Okay. I'll show you maybe like one, maybe
6 two more and then we'll move on to something else.

7 So I scrolled down to Bethel defendants 3526.015.

8 And so here is Saint Joseph's, which is a regional
9 Catholic school. I don't know if it's got an
10 affiliation with either Arch Diocese. Do you see
11 the snip here, it's a shorter one that appears?

12 A. Uh-huh. Yes.

13 Q. And what was the issue for Saint Joseph's?

14 A. Okay. Do you see -- so this is an
15 admissions provision, and do you see how they
16 actually explicitly list out the categories upon
17 which they do not discriminate. But that does not
18 include sexual orientation. That list, they specify
19 like every other category I think in the BOOST law
20 but not that one. And then the next sentence
21 includes the phrase "Christian principals", which we
22 had seen many times in the handbooks and in some --
23 yeah, so we had seen that. So that was a question.
24 So they explicitly state these categories upon which
25 they do not discriminate. Sexual orientation is not

1 included. And in the next sentence, the Christian
2 principals. So that would have been a question on
3 our list.

4 Q. What was it about Christian principals
5 that raised a flag for you?

6 A. Because I know we saw in a number of
7 handbooks that Christian principals said no
8 homosexual behavior. Now, I don't know if it was in
9 this one or not, but we saw it in many cases.

10 Q. Okay. I think the next one is probably
11 another Catholic school. Yeah, Saint Louis school.
12 This is on 017 in the same document?

13 A. Okay.

14 Q. What about with Saint Louis, or Louis. I
15 don't know how they pronounce it?

16 A. Look, it's the same type of thing. You
17 see the middle paragraph, "not discriminate on
18 religion, race, color, national, ethic origin." And
19 the next -- so sexual orientation not included in
20 there, explicitly. And then the next paragraph
21 refers to Christian principals. So are we still on
22 the letters where we asked the schools for more
23 information?

24 Q. Yeah.

25 A. Yeah, so that would have been like -- so

1 the decision was to just let's let the schools tell
2 us something more here because that raises a
3 question, and so try to get more information.

4 Q. Okay. Were these all March 5th. Sorry.
5 Yeah, I guess they were. All right. I think we're
6 close to the bottom here. So now I'm looking at
7 Saint Margaret's school in Bel Air, Maryland.
8 Bethel defendants 3526.019. Go ahead and take a
9 second to look at Saint Margaret's?

10 A. Okay.

11 Q. What was the problem for Saint Margaret?

12 A. Okay. So we're looking at an admissions
13 provision. And children of all faiths, behavior --
14 let's see. "Behavior is contrary to the teachings
15 and ideals of the school."

16 Q. Okay.

17 A. Because see, we're looking at an
18 admissions policy, so what does that mean? Because
19 it's our job to figure out if the school complies
20 with the BOOST law.

21 Q. Okay.

22 A. With that list.

23 Q. Let's see. Is there any other one. Let's
24 look at Woodstream's for a second. This is
25 Woodstream Christian Academy. And it's on Bethel

1 defendants 3526.021.

2 A. Right.

3 Q. What's going on with Woodstream, Monica?

4 A. So this is discipline provision, which
5 again was another mirky area because the BOOST law
6 talks about admissions but the AG's office and the
7 board spent a lot of time talking about, well, you
8 wouldn't just admit a student one day and dismiss a
9 student the very next day. So provisions beyond the
10 admission sections were considered. And this talks
11 about deviant behavior including homosexuality.

12 Q. Yeah, and promiscuity and pregnancy?

13 A. Yes. But those are not listed in the
14 BOOST law.

15 Q. Okay.

16 A. As you can't discriminate, you know, the
17 BOOST law specifically mentions what you can not
18 discriminate on.

19 Q. I want to scroll back up to one of the
20 Catholic schools here. You remember you were
21 talking about how you were telling me that -- as you
22 were looking at these admissions policies, some of
23 the schools would list some bases but not include
24 sexual orientation in their list of things; is that
25 right?

1 A. Right.

2 Q. And you were telling me that that would be
3 one thing that would raise a question?

4 A. Especially if the very next sentence
5 referred to something that we had seen, like --
6 especially if the very next sentence would refer to
7 something that we had seen examples could run
8 contrary to what the BOOST law required.

9 Q. Did anyone ever at any time tell you or
10 did you ever learn that the categories raised
11 national -- race, color, national or ethnic origin
12 are categories required by federal nondiscrimination
13 laws for nonprofits that receive funds?

14 A. I'm sorry, I'm just clarifying. Did
15 anyone ever tell us that, that those were protected?

16 Q. Right. Or did you know that those were
17 the categories required?

18 A. Let's see, managers at MSDE have to take
19 equity training. And so I had to take that training
20 about the federally protected status. And also when
21 you're a manager and you're onboarded at MSDE you're
22 given at least like a basic training as part of like
23 your being a manager, how you can supervise. So I
24 think I was just aware. I don't remember when that
25 equity training happened as far as which point in

1 time. But managers at MSDE are trained on that.

2 Q. Okay. Do you know or do you remember
3 whether sexual orientation was a protected category
4 in federal law in 2017 or 2018?

5 A. That's probably really bad that I don't
6 remember that, but I don't.

7 Q. Okay. All right. We'll move on. Let's
8 see. Let me go back to -- let me go back a little
9 bit. You told me earlier you didn't have a set set
10 of things you were looking at when you were
11 initially doing the handbook review. Do you
12 remember that?

13 A. I remember that, saying that, yeah.

14 Q. Okay. Let me pull up another document
15 that's previously been an exhibit if I can find it.
16 I don't have it here one second. It's just going to
17 take a minute. Okay. All right. This is was
18 previously marked -- or is marked Exhibit 33. Okay.
19 You see this document?

20 A. Yes.

21 Q. Okay. You see I've marked it Exhibit 33,
22 it's Bethel defendants 1332.001?

23 A. Yes.

24 Q. Okay. Do you recognize this document?

25 A. I think so. I think so.

1 Q. And what is it?

2 A. So it's on AG -- Office of the Attorney
3 General letterhead. It's to Matt Gallagher, who was
4 chair of the board during the time I was there. And
5 it's addressed to him and me. And it's from Liz
6 Kameen and Alan Dunklow. So this is, let's see,
7 January 2018. So this would have been after we
8 submitted all the examples we had questions on to
9 the AG's office and the AG's office wrote a memo in
10 response.

11 Q. Okay. What was the purpose of the memo?

12 A. The purpose of the memo was to try to help
13 MSDE administer the program and the BOOST board to
14 make determinations about school eligibility for the
15 program. Because as you can see, the BOOST law is
16 pretty difficult to reconcile certain pieces even
17 within itself. So we needed legal -- the legal
18 office to weigh in and help figure out how we
19 administered this program.

20 Q. Okay. So you're provided with this
21 letter. Then I'm going to scroll down to 002 in the
22 document. Do you recognize this portion of it?

23 A. I recall categories. I recall categories,
24 yes.

25 Q. What were the three categories?

1 A. So now let me just clarify. When I say I
2 recall categories, this is after my team and I were
3 just reviewing -- just reviewing, you know. Having
4 the BOOST law and just reviewing. So we didn't come
5 up with any categories, Paul. These are AG office
6 categories. Okay.

7 Q. But would you use the categories that get
8 established as you're doing your work?

9 A. Well, I kind of remember the other day
10 that -- so we just did the broad review, right,
11 casting the net to include the whole universe,
12 treating all schools the same. That's what we had
13 to do. These categories came out of the AG's office
14 and then, boom, that information is given to us.
15 And so as you know, there were cases before the
16 board where it wasn't clear what the board was going
17 to decide, and so -- see, the board made the
18 determinations about eligibility and then our team
19 would do the logistics and the communication work to
20 implement whatever the determinations were. So I'm
21 not sure if that -- I'm not sure if that answers
22 your question.

23 Q. Okay. So this was dated January 9, 2018,
24 right?

25 A. Right.

1 Q. Do you recall receiving it around that
2 time?

3 A. I don't -- I couldn't tell you if it was
4 January or February or December. I don't know. It
5 would have been after the handbook review. So I can
6 tell you in the sequence it would have been after
7 the handbook review and we submitted all those
8 examples.

9 Q. Right. And just based on -- because I've
10 read this a number of times now. I mean the -- do
11 you see how the -- this memo gives examples of
12 schools that fit into the different categories?

13 A. Yes, I see that.

14 Q. Okay. Yeah. So do you have any reason to
15 believe that you didn't receive this in January?

16 A. I don't have any reason to believe I
17 didn't -- I seriously just do not associate these --
18 the steps in the sequence with particular months. I
19 just don't.

20 Q. Well, the only reason I was asking is all
21 those letters we just reviewed were dated March 5th.
22 So you would have had this memo before you --

23 A. I see. I see. So the letters where we
24 went back and asked schools for more information,
25 those came after this. Okay. So -- but, see, we

1 had already reviewed handbooks and provided the Word
2 document to the AG's office with everything we could
3 possibly have a question on. So we would have
4 already done that part. We would have already done
5 that part. And then this memo, okay, so then this
6 memo would happen. But see, then there were -- even
7 with this memo, so even with this memo there were
8 still questions. So it was almost like the board
9 decided, well, you know what, we're not comfortable
10 making this decision right now, even with this AG's
11 memo, so we're having trouble reconciling the
12 handbook language with the BOOST law. So let's have
13 the schools weigh in on this issue. So then it
14 would have been me sending out those letters to make
15 that happen.

16 Q. Okay. Let me look at something else here
17 for a second. Where are we at. We're on 86. This
18 should be Exhibit 87.

19 (Deposition Exhibit 87 marked.)

20 Q. I'm going to show you an e-mail exchange.
21 Do you see I've marked this as Exhibit 87?

22 A. Yes.

23 Q. And it's got Bethel defendants 1437 as the
24 Bates stamp on the bottom right?

25 A. Yes.

1 Q. Okay. Go ahead and take a second, just
2 get familiarized with that.

3 A. Okay. Textbook program handbook review.
4 Okay.

5 Q. Do you know who Ms. Hutt is?

6 A. This is not ringing a bell.

7 Q. Okay. But you are
8 Monica.Kearns@Maryland.gov, right?

9 A. Yes.

10 Q. And it says on here, "Dear Ms. Hutt, per
11 our phone conversation, attached is a memo from our
12 legal counsel. Please see page two." So this would
13 have been February 16th of 2018. Do you see all
14 that?

15 A. I see that, yes.

16 Q. Okay. Would the attached memo have been
17 the document we were just looking at?

18 A. "Per our phone conversation, attached is a
19 memo from our legal counsel."

20 Q. And the attachment on this e-mail is
21 entitled Enforcing Nondiscrimination and
22 Reimbursement Memo --

23 A. I don't know for sure. But -- but it's
24 possible we asked -- see, remember, we're
25 struggling, we have to -- we have to administer the

1 program and the schools were really needing to know
2 if they were in the program or out of the program.
3 And so -- and we did our part to provide information
4 about the handbook review to the AG's office and
5 then it's possible we asked the AG's office if we
6 could use their memo to help explain why a school
7 would be determined eligible or not eligible.
8 Because you know what, it's better -- we needed
9 that. We needed someone to help not just -- not
10 help but someone to explain to the schools the
11 rationale for the decisions. Because we had to
12 carry out the decisions but we really needed that.
13 So that -- I definitely could have asked if I could
14 use that memo to just get it straight from legal
15 counsel's mouth on the rationale for decisions.

16 Q. Okay. And you would not have shared that
17 memo unless you had permission, right?

18 A. I hope to God I would, yeah. No, shoot, I
19 can't imagine -- shoot, that would have been --
20 please tell me I did not do that. I don't remember.
21 But I can't -- that would be ridiculous if I did
22 that.

23 Q. I don't know that you did.

24 A. You don't know. That's weird. I would
25 have fired me. No.

1 Q. Okay.

2 A. Had to have asked for permission to use
3 it. An AG memo, holy smoke.

4 Q. Let me pull up another. I know it's in
5 here. There is so many of them. Hang on one
6 second. This has -- see if this will work. Okay, I
7 just figured out how to do this more quickly. Okay.
8 Perfect. Let me show you another one. Okay. So
9 this is around the same time, this would have been
10 February 21st of 2018. And who is Kennyata De
11 Costa?

12 A. She was my administrative assistant.

13 Q. And I've marked -- it's an e-mail chain
14 between you and her and Felicia is copied. I've
15 marked it Exhibit 77. It's got a Bates stamp of
16 Bethel defendants 3769 on there, right?

17 A. Yes.

18 Q. Let's scroll down to the second -- to the
19 original one, which is I think an e-mail from you
20 and it appears to be the BOOST board members and
21 then a number of MSDE staffers; is that correct?

22 A. Correct, yeah.

23 Q. Who is Barbara Michels?

24 A. Barbara Michels. Barbara.

25 Q. Very bottom, BMichels@Towson.edu?

1 A. Okay. I think that was the administrative
2 assistant for Doctor Grasmick. Doctor Grasmick is
3 a -- well, at that time she was a member of the
4 BOOST board. She was a board member. And she had
5 someone -- she was employed by -- at the time was
6 employed by Towson University, so she had someone
7 there kind of, you know, handle e-mail
8 communications for her. So that's who that would
9 have been. Because it's got a Towson.edu address
10 and she is copied. You see Nancy Grasmick is one of
11 the recipients up above, but then I would have
12 copied her administrative assistant at Towson to
13 make sure Doctor Grasmick got the message.

14 Q. Yeah, I had not seen that name before so I
15 just wanted to get a clarification on who she was.
16 So -- okay. So you see that. Go ahead and
17 familiarize yourself with this e-mail?

18 A. Okay.

19 Q. It says -- so on 3769.002 it says,
20 attached are two documents, meeting agenda first and
21 then the second one is memo from legal counsel on
22 determining whether a school's student handbook
23 complies with the non-discrimination requirements in
24 considering of enforcing reimbursement of prior year
25 funds. Do you see that?

1 A. I see that.

2 Q. And that would have been the February
3 meeting. We just looked at the January memo. Would
4 that have been that memo?

5 A. I don't recall for sure. I don't recall
6 if there was like another memo in between. I mean
7 that's possible, Paul. So I can't say for sure. It
8 took them a minute to develop that one memo with the
9 categories.

10 Q. Yeah, okay.

11 A. But it's -- you know, I don't recall if
12 there was another intervening memo possibly.

13 Q. Okay. On the 21st then, which would have
14 been like a day later, I think, you sent Kenya an
15 e-mail. Well, actually in between that you added
16 another attachment and sent it out to the board the
17 next day, right?

18 A. Shoot, see how it was just like in time
19 board support. Terrible. Hate that. But I was
20 just doing the best I could. So, you know, pinging
21 them one day and pinging them the next day. But if
22 there is a meeting coming up, you know, you got to
23 do what you can do.

24 Q. Lot of moving parts?

25 A. Yeah.

1 Q. So do you see this e-mail with Kenya at
2 the top?

3 A. Yes, I see that.

4 Q. Okay. And it says "for any", excuse me,
5 "non-board member who has registered to call in to
6 the BOOST meeting today", should have been the
7 21st of February, "can you please forward them the
8 three handouts."

9 A. I see that.

10 Q. Okay. Who would have been non-board
11 members who would have registered for -- to call in
12 to this meeting?

13 A. Okay. So that could have been someone
14 from Department of Legislative Services staff, for
15 example. Because this is a program that was
16 established by the General Assembly. So at times
17 there were Legislative Services staff who would --
18 actually it was often I think -- observe the board
19 meetings. So it could have been them. It could
20 have been -- it could have been anybody. It could
21 have been someone from a school or a school
22 association anywhere, you know. There is public
23 meetings. Those are the couple of examples I
24 remember that are often included. But could have
25 been anybody.

1 Q. I want to put one more thing up just
2 because I forgot about it. Let's see, it is one
3 we've had before. Actually, I think -- sorry, okay.
4 So this has been previously marked as Exhibit 35.
5 Share. Okay. You see this document?

6 A. Yes.

7 Q. Okay. And you see I've marked it
8 Exhibit 35. It's got a Bates stamp on it Bethel
9 defendants 3477?

10 A. Yes.

11 Q. Okay. What is this document?

12 A. Okay. A summary of decisions. So this is
13 a BOOST advisory board meeting February 21st, 2018,
14 summary of decisions from the board meeting.
15 Because, see, these are public meetings. The
16 board -- the BOOST board meetings are public
17 meetings. And we had to record what happened, when
18 I say record, I mean broadly, record what happened
19 at these meetings. So the way that we recorded what
20 happened at BOOST meetings kind of, I want to say
21 evolved, but I don't know if it was evolved as much
22 as like a reaching for what we needed to do. Some
23 of the board meetings have like more robust minutes
24 taken, and some of the board meetings were recorded.
25 When the board was meeting frequently, I didn't

1 necessarily do a full fledged minutes of everything.
2 I wasn't transcribing. I can't transcribe but I'm
3 pretty good at typing fast. So by the time I would
4 get a set of minutes done, it captured kind of
5 everything that everyone talked about at a BOOST
6 board meeting. But if there were like -- sometimes
7 there were meetings happening like boom, boom, boom,
8 and so I talked to the AG's office and --

9 MS. SHERIDAN: Monica.

10 A. Yes.

11 MS. SHERIDAN: Monica. I just want to
12 remind you that the question posed was what is
13 this document.

14 A. Okay.

15 MS. SHERIDAN: Please listen to the
16 question and respond to the question.

17 A. Okay.

18 MS. SHERIDAN: Okay. And please keep in
19 mind when you're talking about communications
20 with the Attorney General's office that the
21 things that are in the public arena are the
22 January 9, 2018 memorandum that we have just
23 reviewed and any discussions that happened at
24 open meetings. Okay. But other than that,
25 there is nothing else in the public arena

1 regarding those communications, they are
2 privileged.

3 A. Okay.

4 MS. SHERIDAN: So kind of listen to the
5 question and answer the question.

6 Q. So did you, Monica -- excuse me. Maybe
7 we can take a break here in about ten minutes or so.
8 But did you prepare the summaries of decisions
9 documents?

10 A. Yes.

11 Q. Okay. So this one would have been from
12 February 21st of 2018?

13 A. That's the date on the document.

14 Q. Okay. And then do you see on Exhibit 35
15 the first bullet point here?

16 A. Yes.

17 Q. Okay. Do you see -- I'll go ahead and
18 read it. It says, in subsection A, "the BOOST board
19 discussed a legal advice memo dated January 9, 2018
20 concerning the enforcement of nondiscrimination and
21 reimbursement provisions in the BOOST law." Is that
22 correct?

23 A. Yes.

24 Q. Okay. And then it discusses in the
25 subsection that the school's student handbooks fall

1 into one of three categories; is that right?

2 A. That's what I'm seeing on the screen.

3 Q. Okay. So it appears that that memo that
4 you sent to the board for this meeting on
5 February 21st was the January 9th memo, correct?

6 A. That's what it says there, the memo dated
7 January 9th, 2018.

8 Q. Okay. Let's see if I've got -- okay.
9 That memo would have gone to -- okay. Good. We
10 were talking about the categories and how those came
11 about later on in the process earlier. And I'm
12 going to ask you a follow-up question about that.
13 Let me put this in there. Okay. So this should
14 be -- okay. Let me go ahead and share. This should
15 be Exhibit 78. It's an e-mail chain. And it's got
16 a Bates stamp Bethel defendants 3592. Do you see
17 that?

18 A. Yes.

19 Q. Okay. Great. Do you see that it's an
20 e-mail chain between you and Felicia?

21 A. Yes.

22 Q. Okay. And this would have been from
23 Monday, March 5th, 2018, correct?

24 A. Yes.

25 Q. Okay. I'm going to try to go back down so

1 we capture the whole part of the conversation. So a
2 few days earlier on February 26, 2018 Felicia wrote
3 to you. Go ahead and take a second to read that and
4 get your -- get everything refreshed?

5 A. Okay.

6 Q. Okay. So Felicia is attaching it looks
7 like letters for category three schools. And --

8 A. I'm sorry, can I pause for -- can I pause
9 for just a moment?

10 Q. Yeah.

11 A. I'll be right back.

12 Q. Okay. Go ahead.

13 MR. SCHMITT: Ann, do you just want to
14 take a lunch break?

15 MS. SHERIDAN: That would be great. I
16 haven't eaten breakfast.

17 MR. SCHMITT: I'm at that point where I'm
18 on the borderline anyway. How long do we want
19 to go?

20 MS. SHERIDAN: Do you want to say 30
21 minutes, is that enough for everybody. Is that
22 enough of a break for you, Monica. I know you
23 have a dog to deal with, you probably need to
24 walk your dog, get a bite to eat. What do you
25 think?

1 A. Sure.

2 MS. SHERIDAN: That's going to work for
3 you, 30 minutes?

4 A. Sure.

5 MS. SHERIDAN: Okay.

6 VIDEOGRAPHER: I'll bring us off the
7 record. Off the video record at 12:33 p.m.

8 (Lunch break was taken.)

9 VIDEOGRAPHER: This is the beginning of
10 unit number three. We're back on the video
11 record at 1:10 p.m.

12 MS. SHERIDAN: The only -- hi, this is Ann
13 Sheridan. And the one thing -- I'm just going
14 to say for the benefit of our witness, Monica
15 Kearns, that and I stated this earlier but I'm
16 going to restate it because it's -- it would be
17 helpful to keep in mind when you're answering
18 questions, that there is -- our attorney client
19 communications that are in the public record,
20 and that is any that occurred during an open
21 board meeting, and the January 9, 2018 memo,
22 but other than those two things, the
23 communications between MSDE and the Office of
24 the Attorney General and between the board and
25 the Office of the Attorney General, we have

1 asserted privilege. So I would ask you not to
2 reveal any -- in your responses any of those
3 communications. And I know it's hard to --
4 it's just helpful to keep that in mind when
5 you're answering, that's all.

6 MR. SCHMITT: Okay. All good.

7 Q. Everyone, welcome back. Thanks for taking
8 a short break for lunch. So let's see. Trying to
9 remember where we left off. I think we were on
10 Exhibit 78. Yes. Okay. So, Monica, I'm going to
11 share my screen again and show you Exhibit 78. And
12 I really don't have -- I forgot to pull another one
13 up. That's okay. I don't have a lot to ask about
14 it, but just pull it up. Okay. Do you see that
15 we're looking at Exhibit 78, which is Bethel
16 defendants 3592?

17 A. Yes.

18 Q. Okay. So earlier before we took lunch I
19 was asking about this exchange between you and
20 Felicia Wise. And it appears to be about the
21 letters that were sent out to category three
22 schools; is that right?

23 A. That's what it looks like.

24 Q. Okay. Okay. And then I wanted to ask
25 about this Monday, March 5th, e-mail. It's got a

1 couple of things that I want to ask a couple
2 questions about. So first of all, there is a list
3 of schools at the top -- of your e-mail, Olney
4 Adventist Prep, Victory Day, which is in Reistertown
5 or Reisterstown. I don't know, I'm not familiar
6 with that town. And then Woodstream Christian. And
7 it looks like you were asking Felicia to add those
8 to a list of category three schools, correct?

9 A. Can you please -- I'm not sure. I mention
10 category three below.

11 Q. Here, I'll go down to the bottom and then
12 just tell me to scroll up as you're ready?

13 A. Attached. Okay. Okay. Category three.
14 All right. Okay. God, okay. Just a bunch of
15 school names to me now. I mean. Okay. Okay.

16 Q. There is also a table that's in the --
17 might be a screen shot or a snippet of the table
18 that's in the middle of the e-mail that you sent to
19 Felicia?

20 A. Yes.

21 Q. Do you see that. What is this from?

22 A. That looks like it's from a spreadsheet,
23 some kind of tracking spreadsheet.

24 Q. Okay. Did you prepare a tracking
25 spreadsheet for the handbook review?

1 A. I don't know. I don't recall.

2 Q. Go ahead, sorry.

3 A. No.

4 Q. But you sent a picture of some kind of a
5 spreadsheet to Felicia, correct?

6 A. That looks like it, yeah. That's, you
7 know -- I'm sorry, can you scroll up. So that's
8 from me to Felicia, and there is, yup, a snippet of
9 some kind of a tracking spreadsheet.

10 Q. Okay. And it has a list of schools. And
11 the e-mails says "the following is the list I have
12 for category three. Please let me know if this is
13 not the correct list." And then that spreadsheet
14 snippet follows that, correct?

15 A. Right. Yes.

16 Q. Okay. And does the spreadsheet list
17 include Arundel Christian School, Bethel Christian
18 Academy, Cathedral Christian Academy, Elvation
19 Christian Academy, Grace Christian Academy, Mount
20 Aetna Adventist School, Olney Adventist Preparatory
21 School, Saint Joseph's School, Saint Louis School,
22 Saint Margaret's School, Victory Day School, and
23 Woodstream Christian Academy?

24 A. Yes.

25 Q. Okay. And then it's got two other columns

1 along with it, correct?

2 A. Yes.

3 Q. Or three actually. But, yeah, okay. And
4 then what are the two columns to the right of the
5 school name on the spreadsheet?

6 A. The heading for one of them says
7 "admission doc complies with BOOST law." And the
8 heading on the next one says "handbook compliance
9 category per OAG memo, if any." Okay.

10 Q. And all of the schools on this list are
11 marked category three in that handbook compliance
12 category column?

13 A. Yes.

14 Q. And all of the schools have a yes next to
15 their names with the -- in the column admission doc
16 complies with BOOST law, correct?

17 A. Yes.

18 Q. Okay. Do you have any recollection of
19 this other than what we've asked about?

20 A. No.

21 Q. Some of the -- well, let me see. There is
22 another exhibit that I'm going to hunt down here
23 that we used. I kind of forgot. I wanted to just
24 double check on it. Let's see, where did that go.
25 All right. Bear with me one second. Okay, that's

1 why I couldn't find it. There we go. I'm going to
2 pull up Exhibit 81. So these communications that we
3 have been looking at have been roughly around
4 February and March 2018, to this point. Okay. Do
5 you see Exhibit 81, it's marked Bethel defendants
6 3566?

7 A. Yes.

8 Q. Okay. Do you see this document?

9 A. Yes.

10 Q. Do you recognize it?

11 A. There were many, many documents generated.

12 Q. What is this document?

13 A. I will read you the title. BOOST schools
14 in category three of the legal advice memo on
15 non-discrimination requirements.

16 Q. Okay. And then it looks like this list is
17 largely similar to the schools we have already seen.
18 Do you see Bethel is listed on -- among the category
19 three schools there?

20 A. Yes.

21 Q. Okay. Along with Woodstream and
22 Broadfording?

23 A. Yes.

24 Q. And, again, I think this is dated
25 March 19th of 2018, correct?

1 A. Yes.

2 Q. Okay. Let me go to another one. I want
3 to show you what has been marked as Exhibit 89.

4 (Deposition Exhibit 89 marked.)

5 Q. It's long. Do you see that it's
6 Exhibit 89 and it's on Bethel defendants 3489?

7 A. Yes.

8 Q. Okay. Go ahead and take a second, take a
9 look at it and see if you recognize it?

10 A. Okay.

11 Q. What is this document?

12 A. This looks like -- okay, so across the top
13 it says "Broadfording Christian Academy request for
14 reconsideration. Received via e-mail 6/4/18 at
15 11:30 a.m."

16 Q. So we had talked before about schools
17 changing their handbooks or asking for
18 reconsideration. Do you remember if Broadfording
19 was among those that requested reconsideration?

20 A. I don't remember that offhand. That looks
21 like what the document says.

22 Q. Can you look at the second paragraph -- so
23 this letter is addressed to you, correct?

24 A. Yes.

25 Q. Okay. Can you look at the second

1 paragraph and then the quoted block paragraph
2 underneath it for a second and let me know when you
3 feel familiar with that.

4 A. Okay.

5 Q. So based on -- well, what is Broadfording
6 referring to in their request for reconsideration
7 here?

8 A. They would be referring to reconsideration
9 for participation in the program.

10 Q. Okay. And specifically they reference a
11 document as they are making their pitch to you.
12 What document do they reference?

13 A. The January 9th, 2018 OAG memo.

14 Q. Okay. And earlier we looked at some
15 documents where you had forwarded out that memo to
16 Ms. Hutt, right?

17 A. I had -- it looked that way, yeah.

18 Q. And there was another e-mail where, I
19 don't remember if it was -- must have been
20 Felicia -- no, it might have been Kenya. I think it
21 was Kenya. You had instructed Kenya to forward the
22 attachment for people registered for the
23 February 21st meeting, right?

24 A. We looked at an e-mail correspondence
25 between Kenya and I about sharing documents with

1 non-board members who had registered to observe the
2 meeting that day via, you know, remotely.

3 Q. Okay.

4 A. Audio. Probably audio.

5 Q. Okay. Okay. And it appears -- it appears
6 given this that Broadfording had a copy of that memo
7 because they are quoting it, correct?

8 A. That appears that way.

9 Q. Okay. Actually let's look at that again
10 real quick. Oh, my. You see the third paragraph of
11 the request for reconsideration?

12 A. You mean the one that starts out "the
13 agenda", or the one that starts out "the audio."

14 Q. Yeah, the agenda is fine?

15 A. Yes.

16 Q. Okay. So this is referring to a board
17 meeting. Which board meeting is it referring to?

18 A. It says there the May 3rd, 2018 BOOST
19 advisory board meeting.

20 Q. Okay. We're going to look at what's been
21 marked as Exhibit 83 now. Okay. Do you see this is
22 marked as Exhibit 83, it's Bethel defendants 3838?

23 A. Yes.

24 Q. Go ahead and take a second to familiarize
25 yourself with this?

1 A. Okay.

2 Q. Here's another e-mail in the chain?

3 A. Okay. The advice memo on the so-called
4 category three handbooks, and this is in May. So
5 this would be -- something that occurred as an
6 additional step after the January memo.

7 Q. Okay. And I'm not asking about the
8 contents of that or anything like that. I don't
9 want to know about the legal advice. It's just that
10 there is a different memo, correct, that you are
11 telling -- you're telling Felicia and Kenya not to
12 forward on to anyone?

13 A. That's what that looks like.

14 Q. Okay. Do you remember -- so we looked at
15 the original BOOST law and the non-discrimination
16 requirements I think earlier this morning. Do you
17 remember when the legislature was considering
18 expanding the nondiscrimination requirements?

19 A. No.

20 Q. Okay. You don't have any recollection of
21 consideration or debate about whether to expand the
22 non-discrimination requirements to include gender
23 identity or gender expression?

24 A. I think that happened after I left. I
25 left in September 2018.

1 Q. Okay.

2 A. That must have happened after I left.

3 Q. Let me -- I'm going to show you what is
4 marked Exhibit 90.

5 (Deposition Exhibit 90 marked.)

6 Q. Okay. Do you see that. Sorry?

7 A. Yes.

8 Q. Do you see that I've got Exhibit 90 here.
9 It's Bethel defendants 1364?

10 A. Yes.

11 Q. Okay. Go ahead and take a second to look
12 at it. You need to zoom maybe?

13 A. Thanks. Okay.

14 Q. Okay. Who is Patrick Fleming?

15 A. Trying to remember, but his title is --
16 the e-mail signature their references Government
17 Relations and his e-mail talks about a question from
18 a delegate. So he would have been Government
19 Relations for MSDE.

20 Q. Okay. What was the specific question from
21 Delegate Ebersole?

22 A. Per the e-mail that's on the screen.

23 Q. Yeah.

24 A. Let's see. Says he was interested if
25 "MSDE or the BOOST board does more than a cursory

1 investigation of schools that participate in BOOST
2 program for compliance with non-discrimination
3 admittance and hiring practice. Something like an
4 audit to ensure that the actual practice of
5 non-discrimination is not just in the handbook and
6 written policies but is actually the practice."

7 Q. Okay. And what did you tell Patrick?

8 A. I told him that the handbook/admissions
9 policy review is the extent of the review for the
10 2017/2018 year. And any additional review would
11 require additional staff resources.

12 Q. So when you were -- when you and your
13 staff were going through and doing the handbook
14 review, did you ever have any allegation of an
15 actual instance where a student was denied admission
16 based on sexual orientation that you were made aware
17 of?

18 A. That was not any information -- I don't
19 recall any information like that.

20 Q. Okay. And you didn't -- you -- you and
21 your staff didn't do any additional investigation to
22 see if that type of discrimination was occurring,
23 correct?

24 A. The handbook review is what we did.

25 Q. Okay. Just the handbook review?

1 A. As I said there, the handbook/admissions
2 policy review. Because a school may have called it
3 a handbook or they may have called it admissions
4 policy. So that's what we did. We reviewed those
5 documents.

6 Q. Okay. I'm going to show you another
7 document. We talked a lot this morning about the
8 limited resources that you and your team had to do
9 this -- to get the program going and conducted. I
10 want to ask a question about what we just saw and
11 then share this with you. Let me -- do you see a
12 Department of Legislative Services document?

13 A. Yes.

14 Q. Okay. Do you see I've marked it
15 Exhibit 91?

16 A. Yes.

17 (Deposition Exhibit 91 marked.)

18 Q. And it's Bethel defendants 1441?

19 A. Yes.

20 Q. Let me zoom in. Okay. Have you ever seen
21 this before?

22 A. I don't know if I have. I've seen a lot
23 of fiscal note requests in my day. So...

24 Q. Well, take a minute and then when you're
25 ready for me to scroll, let me know.

1 A. Okay.

2 Q. Sorry, I didn't realize I was doing that.

3 A. Oh, God's sakes alive. I'm sorry, can you
4 scroll back up to show me the bill title. Bill
5 title is non-public elementary and secondary
6 schools, discrimination prohibition. And this
7 was -- this fiscal note response was developed by
8 the -- see the non-public schools group in another
9 division at MSDE. Not my division. So can you
10 scroll down?

11 Q. Yeah.

12 A. And, okay. And then can you scroll down a
13 little more, please. So it says "the proposed bill
14 requires that non-public schools shall not
15 discriminate" -- okay. Okay.

16 Q. Okay. And then any of this stuff. Do you
17 need to see any of this down here?

18 A. Yeah, can you scroll down a little more,
19 please. Okay. All right. Sorry, can you go back
20 up a little bit under number six.

21 Q. Yup.

22 A. Okay. Okay. Thanks.

23 Q. See how it's talking about BOOST there?

24 A. Yup.

25 Q. Okay. So expanding -- this would have

1 been -- you see it's dated February 13, 2018. So it
2 would have been around the time that you guys were
3 performing your handbook review. Assuming that that
4 had been adopted, which eventually it was and the
5 non-discrimination requirement included gender
6 identity -- yeah, included gender identity, would it
7 have cost your team more resources to assure
8 compliance with an expanded non-discrimination
9 requirement?

10 MS. SHERIDAN: Objection. You can answer.

11 A. Would it have cost my team more resources
12 to have another category added to the list of
13 non-discrimination categories, that's the question?

14 Q. Yeah.

15 A. I don't know.

16 Q. Well, let me ask it this way. Would you
17 have had to review all the handbooks again if gender
18 identity got added in as a category?

19 A. I would have had to -- see, the handbooks
20 were reviewed every year. So unless the law said
21 something about retroactive, which I don't even know
22 if the law is allowed to do that, then a new legal
23 requirement would have been folded in to
24 implementation administration of the program for the
25 next go around and then moving forward.

1 Q. Did you or your team, when you were
2 conducting your handbook review, flag anything
3 mentioning gender identity or expression?

4 A. I don't recall that we did.

5 Q. Okay. See if I got everything.

6 A. I mean.

7 Q. Go ahead, I'm sorry.

8 A. I do recall that there were conversations
9 about whether gender identity was in the same realm
10 as sexual orientation. I recall conversations of
11 the board about that.

12 Q. Do you recall when those conversations
13 occurred approximately?

14 A. No, I -- I don't.

15 Q. I'm going to show you Exhibit 88.
16 (Deposition Exhibit 88 marked.)

17 Q. Do you see I've got Exhibit 88 up, Bethel
18 Gallagher 0455.

19 A. Yes.

20 Q. And I'm going to scroll down in the thing
21 to the second page, because it's an e-mail that you
22 wrote on September 5th, 2018. Do you see that?

23 A. Yes. Would you be willing to zoom in a
24 little.

25 Q. Yeah, I'm sorry.

1 A. Thanks. Okay.

2 Q. Okay. What's going on here?

3 A. I left MSDE.

4 Q. And were you announcing your departure to
5 the board?

6 A. Yes.

7 Q. Why did you leave MSDE?

8 A. Do we have to go into that. Do I need to
9 go ahead and answer that. Because I don't really
10 want to be admonished in front of the group again.
11 I'm trying to help, I'm trying to provide
12 information, I need to answer questions, but it's
13 kind of difficult.

14 Q. As long as you're not -- if the answer
15 involves any advice your attorney gave you, don't
16 tell me that. So I don't want to know that. But
17 otherwise you can answer the question?

18 A. I left MSDE because I didn't want to
19 administer this program any more. That's why I
20 left.

21 Q. Did the problem with the handbooks factor
22 into that decision?

23 A. No, not particularly, Paul. No. I was
24 hired to be in charge of the business services
25 division at a state agency. And this program -- and

1 I worked more than 40 hours a week for sure on that
2 role. This program ended up taking probably 80 or
3 85 percent of my time. So this is not what I wanted
4 to spend my time on at my job. And I did it for two
5 and a half years. And I even demoted myself to try
6 to get away from being responsible for this program.
7 And that didn't even work. Because guess what, I
8 was doing a good job administering the program but I
9 didn't want to administer the program. Nothing
10 personal against the program, it's just not what I
11 want to do for my job. So that's it. I want to
12 work on budgets and fiscal things.

13 Q. Okay. Good. Let's see if I've got
14 anything else. I promise I'm working hard to get
15 you out of here. Yeah, let me -- there is something
16 that's pretty relevant. Let me pull that up. Where
17 did that go. Sorry, guys. Give me one second.
18 Okay. Let's look at what's been marked as
19 Exhibit 11. I'll share my screen with you. Okay.
20 So this would have been back in March 2018. It's on
21 Bethel Christian Academy letterhead. Do you see
22 that?

23 A. Yes.

24 Q. Okay. Let me scroll down. I had marked
25 it Exhibit 11. It's got a Bates number of 0069.

1 And it's from the motion for preliminary injunction,
2 it was Exhibit 3. Do you see all that?

3 A. Yes.

4 Q. Okay. Do you kind of remember this at
5 all?

6 A. I remember letters from schools to me
7 about this whole issue. I don't remember this
8 letter any more than any others really.

9 Q. Okay. Go ahead and take a second to look
10 at it. If you need me to scroll down, go ahead and
11 let me know?

12 A. Okay. Can you scroll down. Okay. Okay.

13 Q. Okay. So those are -- am I right that
14 those are the answers that Bethel provided to the
15 follow-up questions from your March 5th letter?

16 A. That appears to be that letter, yeah.

17 Q. So Monica, one thing I'm wondering is when
18 you got these answers back from the schools, from
19 the inquiry that got sent out on March 5th, what did
20 you do then when you received this?

21 A. I don't specifically remember. I mean I
22 would have -- this was an ongoing process, and a
23 very, very, very much an ongoing process. So, see,
24 if I sent a letter saying that the board was trying
25 to determine -- trying to gather more information

1 about how the school complies with the BOOST law,
2 and this is the school's answer, then I would have
3 needed to get this answer to the board.

4 Q. Okay. Were you involved at any time in
5 analyzing these answers and giving an opinion on
6 them?

7 A. No. At this point really it was an
8 intermediary to gather the information from the
9 schools and give it to the board. The board made
10 the decisions.

11 Q. Okay. Great. Let's look at -- I'm going
12 to show you another one that was marked Exhibit 14.
13 Okay. Do you see I've marked this Exhibit 14 here.

14 A. Yes.

15 Q. Okay. And this is Plaintiffs MPI Exhibit
16 No. 4 and had a Bates stamp of 0072 on it?

17 A. Yes.

18 Q. Okay. Go ahead and take a second to look
19 at it and recognize it?

20 A. Okay.

21 Q. Do you remember Claire Dant sending you a
22 statement for one of the BOOST board meetings?

23 A. I remember that a little bit.

24 Q. Okay. And did you -- well, let me ask. I
25 know I just asked you a similar question but I'm

1 just making my record here. So were you involved in
2 any analysis of this statement or did you just pass
3 this on to the board?

4 A. I would have passed it on to the board.

5 Q. Okay.

6 A. For their meeting, you know, for their
7 next meeting.

8 Q. So you didn't provide any input or
9 analysis on the answers that you received or the
10 statements that you received?

11 MS. SHERIDAN: Objection. Asked and
12 answered.

13 A. No.

14 Q. Okay. And you're saying no; is that
15 right?

16 A. I am saying no, just -- right. That's
17 right.

18 Q. The transcript won't catch you shaking
19 your head. That's why I asked. Okay. Great. Do
20 you remember -- I go through this list of questions
21 every time. Do you remember having any
22 conversations outside of the e-mails that we looked
23 at earlier from the fall of 2017, do you remember
24 having any conversations with anybody from the
25 Maryland PTA?

1 A. No.

2 Q. Do you remember receiving any
3 communications or communicating in any way with
4 anybody from the ACLU at any point?

5 A. ACLU. ACLU. I'm trying to remember.
6 They may have -- ACLU. Gosh. They may have
7 attended BOOST board meetings. I'm trying to
8 remember. That's a possibility.

9 Q. Okay. Do you -- I think earlier we had a
10 document we looked at with -- let me see if I
11 actually showed it to you. Maybe I did. How
12 frequently did you communicate with individuals from
13 either the legislature or the Governor's office
14 regarding the handbook review and the
15 non-discrimination requirement?

16 A. How often did I directly communicate with
17 the Governor's office or legislatures?

18 Q. Or their staff, yeah.

19 A. If I heard from the legislature, it would
20 have been through like that example we saw, through
21 a Government relations person. Because all
22 communication from legislatures was supposed to go
23 through that group. I don't recall that happening
24 too often. There was also someone at MSDE who would
25 have received something, I would think, from the

1 Governor's office before me. I wouldn't have --
2 yeah.

3 Q. Who would that person be?

4 A. It would have -- I don't know. I don't
5 know. That just didn't happen that often where
6 something would make it's way to me from -- wait,
7 from the Governor's office. Wait, wait. I did have
8 to -- okay. Hold on. I don't remember who was
9 involved but I did have to develop updates on what
10 was happening with the BOOST program, and those were
11 for someone in the Governor's office. Okay. So I
12 do remember developing updates. I don't remember
13 who it was -- who the person was and I don't
14 remember like if I had to give it to somebody at
15 MSDE first who then would give it to the Governor's
16 office. Because you know how organizations like to
17 have certain people in charge of certain lines of
18 communication. So...

19 Q. And do you recall who requested that you
20 do that or that you prepare those updates?

21 A. I don't. I really don't remember -- I
22 really don't remember. I remember preparing the
23 updates.

24 Q. When you -- I forgot about this other -- I
25 was going to ask some questions. So you left MSDE

1 in September 2018. What did you do on your way out
2 to kind of prepare your team for that transition?

3 A. I got everything worked up to the farthest
4 point possible.

5 Q. Okay. Who replaced you?

6 A. Donna Gunning.

7 Q. Did you have -- did you have conversations
8 with Donna about the status of things as you were
9 leaving?

10 A. I did, yes.

11 Q. Did you talk with her about the handbook
12 issue and all of that?

13 A. I remember telling her that reviewing of
14 handbooks is a very big time consuming
15 responsibility and so that they had to plan time for
16 that.

17 Q. Do you remember that once schools were
18 found to be ineligible, that the State pursued a
19 claw-back of previously allocated funds?

20 A. I remember that, yeah.

21 Q. Do you remember any discussion about --
22 amongst the BOOST board about the claw-black, about
23 whether or not to pursue a claw-back?

24 A. I do remember they discussed that.

25 Q. Why did the board decide to pursue

1 claw-backs of funds?

2 A. I don't know why they did.

3 Q. Okay. As far as your relationship with
4 the board goes, spending so much of your time
5 administrating this program, how often would you
6 have conversations with individual board members?

7 A. Conversations between me and individual
8 board members didn't happen that often.

9 Q. How about with Chairman Gallagher?

10 A. If it was anyone, it would have been him.

11 Q. Okay. So how --

12 A. Not often.

13 Q. Not often. Okay. And would he e-mail you
14 requests?

15 A. I had to work with him and his secretary
16 on things like his availability for board meetings.
17 And because we needed to check his availability
18 first and then we would get some time blocks, so
19 possible time blocks to schedule board meetings.
20 Because I had to make sure he was there because he's
21 the Chair. He was the Chair anyway during the time
22 I was there. So I had to start with his
23 availability and then we would send out a little
24 survey, Monkey Survey, to see all the members, how
25 all the other members availability matched up. But

1 I did that with his secretary.

2 Q. I think her name is Terri?

3 A. Yeah, I think so.

4 Q. Do you know were there ever discussions
5 about the handbooks or the non-discrimination
6 provision outside of the board meetings?

7 A. Not that I know of.

8 Q. Did you ever receive media requests or
9 have any conversations with members of the media
10 about the program and the non-discrimination issues?

11 A. Did I? No way. No way would you ever
12 find me doing that. Not even close.

13 Q. You don't recall receiving media requests?

14 A. If I did, that got forwarded so fast to
15 the media relations people it would make your head
16 spin. Because that was one group I didn't have to
17 reply to, somebody else could handle that.

18 Q. Okay. That makes sense. I'm going to
19 show you another exhibit. I think this is 92.

20 (Deposition Exhibit 92 marked.)

21 Q. Okay. You see I've got an e-mail from --
22 pulled up here. It's Exhibit 92, Bates marked
23 Bethel Gallagher 0372?

24 A. Yes.

25 Q. Go ahead and take a look at it for a

1 second.

2 A. Okay. Okay.

3 Q. You see this is an e-mail chain between
4 you and Terri attempting to schedule a BOOST board
5 meeting?

6 A. Yes.

7 Q. Were there ever BOOST board meetings where
8 members of the Attorney General's office were not
9 present. Not asking any questions about any advice
10 or anything you ever received, just whether there
11 were meetings where those individuals were not
12 present?

13 A. I don't recall any meetings with no OAG
14 staff present.

15 Q. All right. I'm going to look through and
16 see if we've got anything else. I think I'm almost
17 done. So, Monica, having the benefit of hindsight
18 now and being removed from the program, looking back
19 on the handbook review process and all of that, is
20 there anything you would have done differently?

21 MS. SHERIDAN: Objection. Calls for
22 speculation.

23 Q. You can answer.

24 A. Yeah, I really object to that too. I
25 object to that. Because we did the best we could

1 and we worked really hard on that. And we were
2 careful. And I'm proud of how well we did. I don't
3 think anybody in our role could have done any better
4 than what me and Felicia and Jamie did. We did the
5 best we could and I thought it was good. We treated
6 everyone the same and we were consistent across the
7 board.

8 MR. SCHMITT: Okay. I think that's all
9 I've got, Ann.

10 MS. SHERIDAN: I have no questions.

11 VIDEOGRAPHER: Okay. This concludes
12 today's video recorded deposition. We're going
13 off the video record at 2:08 p.m. 2:07 p.m.

14 (Deposition concluded at 2:07 p.m.)

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STATE OF MARYLAND

I, David Corbin, a Notary Public in and for the State of Maryland, do hereby certify that the within named, MONICA KEARNS, personally appeared before me at the time and place herein set according to law, was interrogated by counsel.

I further certify that the examination was recorded stenographically by me and then transcribed from my stenographic notes to the within printed matter by means of computer-assisted transcription in a true and accurate manner.

I further certify that the stipulations contained herein were entered into by counsel in my presence.

I further certify that I am not of counsel to any of the parties, not an employee of counsel, nor related to any of the parties, nor in any way interested in the outcome of this action.

AS WITNESS my hand and Notarial Seal this 27th day of April, 2021, at Centerville, Maryland.



David C. Corbin
Notary Public

My commission expires November 13, 2023

EXHIBIT 6



Deposition of:
James Alan Klarman

April 21, 2021

In the Matter of:

Bethel Ministries, Inc vs Salmon, et al

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
NORTHERN DIVISION

BETHEL MINISTRIES, INC.,

Plaintiff, Case No.

vs. 1:19-cv-01853-SAG

DR. KAREN B. SALMON, et. al.,

Defendants.

* * * * *

Pursuant to Notice, the Deposition of
James Alan Klarman was taken on April 21, 2021,
commencing at 9:35 a.m., via Zoom before Diane
Houlihan, a Notary Public.

REPORTED BY: Diane Houlihan

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A P P E A R A N C E S

ON BEHALF OF THE PLAINTIFF:

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ALSO PRESENT:

ELIZA SPIKES - VIDEOGRAPHER
MARVA JO CAMP

I N D E X		
Name of Witness		Page
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Examination by Mr. Schmitt		7
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E X H I B I T S (ATTACHED)		
EXHIBIT	DESCRIPTION	PAGE
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Exhibit 21A	2019-2020 Bethel Christian Academy Parent/Student Handbook	111
Exhibit 31	House Bill 150 - Budget Bill 2018	68
Exhibit 33	Memo to Matt Gallagher and Monica Kearns from Elizabeth Kameen and Alan Dunklow Dated 1/9/18	74
Exhibit 34	List of Non-Compliant Schools	95
Exhibit 52	Letter to Claire Dant from Donna Gunning Dated 4/24/20	129
Exhibit 57	E-mail Chain	88
Exhibit 59	Kearns Letters to Flagged Schools Dated 3/5/18	52
Exhibit 60	House Bill 588 Senate Bill 491, Budget Bill 2022	137

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E X H I B I T S (Continued)

Exhibit 63	E-mail Chain	113
Exhibit 64	Nonpublic Schools Program Coordinator Position Posting	141
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Exhibit 67	E-mail to Bette Holub from Jamie Klarman Dated 12/18/18	151
Exhibit 68	E-mail Chain	154

1 IT IS HEREBY STIPULATED AND AGREED that
2 the reading and signing of this deposition are not
3 waived.

4 JAMES ALAN KLARMAN,
5 duly been sworn to tell the truth, the whole truth,
6 and nothing but the truth, testifies as follows:

7 THE VIDEOGRAPHER: Good morning. We are
8 going on the video record at 9:35 a.m. on
9 April 21, 2021.

10 This is media unit number one in the
11 deposition of Mr. James Klarman in the matter
12 of Bethel Ministries, Inc. versus Salmon, et.
13 al. filed in the Circuit Court. Excuse me.
14 Filed in the United States District Court for
15 the District of Maryland Northern Division.
16 Case number 1:19-CV-01853.

17 This deposition is being held via Zoom.

18 My name is Eliza Spikes from the firm
19 Veritext, and I'm the videographer. The court
20 reporter today is Ms. Diane Houlihan, also from
21 Veritext.

1 I am not authorized to administer the
2 oath, I am not related to any party in this
3 action, nor am I financially interested in the
4 outcome.

5 Counsel and all present in the room and
6 anyone attending remotely will now state their
7 appearances and affiliations for the record.
8 If there are any objections to this proceeding,
9 please state them at the time of your
10 appearance, beginning with the noticing
11 attorney.

12 MR. SCHMITT: Okay. I'm Paul Schmitt. I
13 represent the plaintiff, Bethel Ministries.
14 And with me today observing are Ryan Tucker and
15 Jacob Reed.

16 MR. SCOTT: This is Robert Scott,
17 assistant attorney general for the State of
18 Maryland on behalf of the defendants and the
19 witness. And observing from my office today
20 are Ann Sheridan and Justin Fine.

21 THE VIDEOGRAPHER: Will the court reporter

1 please swear in the witness?

2 (Whereupon the witness was sworn.)

3 E X A M I N A T I O N

4 BY MR. SCHMITT:

5 Q Okay. Good morning, sir. My name is Paul
6 Schmitt. I'm from ADF and I represent Bethel.

7 Thank you for making yourself available
8 today. I really appreciate it.

9 Before we get started, I'll probably give
10 some ground rules on how this works.

11 Have you ever been involved in a lawsuit
12 in any capacity before today?

13 A I think when I was ten years old. Goes
14 back a ways.

15 Q Okay. So not anytime recently?

16 A No.

17 Q Okay. And you've never been deposed
18 before?

19 A Just in that one case I believe.

20 Q Okay. Great. Okay. Given that that's
21 the case, I'll give just some kind of ground rules

1 on how this is working, and especially because we're
2 in this weird world doing it online. Typically we'd
3 all be sitting around a table and I'd be passing you
4 stuff to look at.

5 But ultimately, the whole point of
6 today -- and you can hear and see me fine, right?

7 A Yes.

8 Q The whole point of today is we're in the
9 discovery process in this case. So it's just trying
10 to figure out the who, what, when, where, and why of
11 the facts that go to the claims and the defenses in
12 this case.

13 So we've asked to depose you because we
14 know you had a role in handbook review in the MSDE.
15 And so we're trying to understand how all that
16 worked. So that's why you're here.

17 So there's just a few things, though, that
18 I want to kind of just go over.

19 And I know she just asked you this, but no
20 one else is in the room with you, right?

21 A No.

1 Q Okay. Great. If anybody does come into
2 the room, I'd ask that you let us know, just so
3 we're aware, we have situational awareness.

4 Do you have dual monitors perhaps?

5 THE COURT REPORTER: He has an external
6 camera.

7 Q Okay. Because your camera is --

8 A It is a USB camera.

9 Q Yeah. That's okay. You can leave it as
10 is.

11 I was going to ask aside from your screen,
12 is there anything else in front of you, like notes
13 or documents or anything like that?

14 A No. I got some vendor statements off to
15 the side. This is my desk, the kitchen table, these
16 days.

17 Q Great.

18 A My wife just walked past to the living
19 room. She's the only person in the house.

20 Q Okay. Yeah. And the only reason I ask
21 that is so that unlike Millionaire, there's no phone

1 a friend option today. So your answers that you
2 give are just to be your knowledge and your
3 experience. So no texting or instance messaging or
4 anything like that.

5 And I know that seems obvious. But you
6 would be surprised. People do it. So I just have
7 to say it.

8 And then so if your wife is coming in and
9 out, we don't need to go through that every time.

10 Let's see, and then you don't have any
11 devices in front of you, like phones and that kind
12 of stuff. Okay, great.

13 Let's see. And then as far as while we're
14 going through this with questions and answers, I'd
15 ask that you not communicate with anybody else
16 besides me while we're on the record. And we'll
17 probably go off the record at multiple times.

18 With the technology, if there's an issue,
19 so our side, we had all kinds of technological
20 issues while we were trying to figure this out the
21 first week. If something happens and something goes

1 wrong, just say so and we'll stop and get it fixed
2 and all that kind of thing.

3 I'm not sure how long we'll take this
4 morning, but I've had a lot of coffee. I'll
5 probably need a break at some point. If you need a
6 break, that's fine. If you want to get a coffee or
7 a glass of water or something like that, just let us
8 know, we can take a break.

9 Let's see. I think that might be it.

10 Do you have any questions for me?

11 A No, no.

12 Q Okay. And then just as a global thing,
13 how do you prefer that I address you? Would you
14 like Mr. Klarman or James or Jamie or something like
15 that?

16 A Jamie is fine.

17 Q I'm Paul. You can call me Paul. I'll
18 answer to probably whatever you call me. But that's
19 fine. Okay.

20 So I think we are ready to begin now. One
21 other thing.

1 What ends happening with this is that this
2 gets put into a transcript. And then we use your
3 answers, right, the lawyers use your answers to say
4 well, this is how this happened on this day.

5 So I may ask like questions that seem very
6 obvious, and I'm not trying reveal that I'm an
7 idiot. I'm not trying to insult your intelligence.
8 It's for the purposes of when someone is reading the
9 transcript, that they know what we're talking about.
10 So I'll ask a lot of things like do you see this,
11 what is this, that kind of stuff. And so that's
12 what that is. I know that can be awkward, but just
13 so you know.

14 So for the record, could you please tell
15 me your name and spell it.

16 A Jamie Klarman. Legally James. J-A-M-E-S,
17 Alan, A-L-A-N, Klarman -- K-L-A-R-M-A-N.

18 Q Great. Okay. And where do you live?

19 A I live 2120 Furnace Road, Fallston,
20 Maryland.

21 Q Okay. Good. And then what is your

1 educational background, please?

2 A I have a bachelors degree in business
3 administration from Frostburg State College,
4 University now.

5 Q Great. And then as far as your
6 professional background, what is your current role?

7 A I am the nonpublic schools program
8 coordinator.

9 Q Okay. And how long have you been in that
10 role?

11 A Five years.

12 Q Great. So that would have been starting
13 around 2016?

14 A That sounds correct.

15 Q Okay. Have you been in that role since
16 the beginning of the BOOST program?

17 A I have been.

18 Q Great. Then as far as before you were the
19 nonpublic schools coordinator, what were some of
20 your other jobs that you had?

21 A Had from the beginning of my career?

1 Q Sure.

2 A Well, I was in -- I worked for a general
3 contracting company, J. Vinton Schaffer & Sons. I
4 was assistant controller. And then I was subsidiary
5 controller and treasurer of a precast concrete plant
6 that they owned for 13 years I was with them.

7 And then for the following 20 years, I was
8 with Hub Group, Inc. out of Chicago, intermodal
9 transportation company.

10 I was controller of a local office and
11 later a regional manager of finance. I oversaw
12 eight offices in the east coast and teams of
13 collections and accounting staff basically was my
14 role there for 20 years.

15 Q Great. And then you came to the MSDE
16 after that?

17 A Yes, yes.

18 Hub Group, they were transitioning over
19 the last few years I was there into more regional
20 Chicago, LA, and Atlanta footprint. So I was
21 involved in closing down the east coast offices.

1 And mine was the last to go.

2 I took eight months off. Had a severance
3 package.

4 And heard about an opportunity at MSDE. I
5 was actually brought in to be fiscal monitoring of
6 the PARCC grant. When Maryland took over the PARCC,
7 the fiscal requirements from Florida to Maryland. I
8 was brought in as part of the team to review.

9 Something completely different. But it
10 was an interesting position.

11 Q Yes. So because I'm not from up this way
12 originally. But the PARCC grant, I'm not familiar
13 with that.

14 What is that?

15 A That was, that was where a consortium of
16 states got together and they were tasked with
17 developing the standardized tests, which was a
18 little controversial in the news for sure over
19 individual -- you know, whether it was -- each state
20 had the best process or whether there was some
21 synergy to be gained from approaching this from a

1 multiple state perspective.

2 And that's PARCC was one of the two
3 organizations that were developing the national
4 assessments.

5 Q Okay. That's interesting.

6 So then you were in that role and at some
7 point you switch over into these nonpublic school
8 programs.

9 When did that transition occur?

10 A It was just five years ago. The PARCC
11 grant responsibilities finished, finished up. And
12 colleagues that I worked with recognized that I had
13 the background that this coordination of this
14 program would be right up my alley as far as
15 experience and capabilities.

16 Q Great, great. So you came in right as the
17 BOOST program was getting launched.

18 And it's my understanding, and I'm basing
19 this. We talked to Valeria Carpenter yesterday. So
20 she was explaining that you really are more focused
21 into the Textbooks program.

1 Is that correct?

2 A Correct.

3 Q Okay. When you were initially
4 transitioning into the nonpublic schools role, was
5 that for the purpose of Textbooks or was that
6 Textbooks and BOOST both or how did that --

7 A It was all Text. Textbook was -- Textbook
8 and a little bit of Aging Schools, just because all
9 the way it's worded in the legislative language is
10 that the Textbook program is the gateway. So they
11 make sure that the schools are vetted for certain
12 assurances in the Textbook program, which qualifies
13 them then, based on that, to apply for these other
14 programs that were linked in that way. That's the
15 only connection.

16 I helped them with processing their
17 applications for the schools because that was --
18 they couldn't participate in those programs if they
19 didn't meet the qualifications for Textbook. So I
20 would share my list or I kept an eye on who was
21 applying and made sure that they had passed the

1 first hurdle to get into the programs.

2 Q Okay.

3 A For the language.

4 Q Sure. Okay. So you were in a way, then,
5 kind of the gatekeeper. Initially they have to get
6 into Textbooks to get eventually into BOOST.

7 Were you like the first person to review
8 those materials or did you have other people working
9 with you in your office?

10 A This is prior to BOOST.

11 Q Right.

12 A Yeah. I mean I was, I was coordinator for
13 the program. I answered to Monica Kearns and Jim
14 Clark, as they were my mentors trainees and who I
15 answered to. So if there was anything questionable,
16 I sought advice. If they couldn't give me the
17 answer, they sought legal guidance.

18 Q Great. Okay. And then the BOOST program
19 comes about. Let's just say it's 2016 now.

20 What roles did you have as BOOST was
21 getting spun up or what projects did you -- or

1 aspects of the program is probably a better way to a
2 ask it.

3 What roles or aspects of the program did
4 you handle?

5 A Basically my only role, I was invited to
6 the Board meetings. So I attended most of the Board
7 meetings just to make sure everybody was on the same
8 page and you know. So I -- just eyes and ears I
9 guess for the program and for our discussions as a
10 group when we tackled a policy decision.

11 The -- my really only involvement was
12 basically once all of the applications were
13 submitted, reviewed, and approved within the
14 Textbook program, I would then give that preliminary
15 list of schools to Valerie and Monica and the BOOST
16 program, that these were the schools that met the
17 qualifications, so these -- and then they had to
18 also agree to a different set of assurances related
19 to their program as far as like assessments or --
20 yeah, assessments or, you know, timing of when they
21 had specific reporting that was specific to the

1 programs.

2 Same with the Aging School programs has
3 their own set of assurances.

4 The one thing that did flow through with
5 all the programs, the exact same language, was the
6 discrimination piece. So we were careful to make
7 sure that everybody was treated even-handedly, and
8 we -- that was always our goal.

9 Q Okay. You mentioned that you would attend
10 the BOOST Board meetings.

11 Who invited you to attend those meetings
12 or requested that you attend them?

13 A Monica Kearns was my supervisor.

14 Q Okay. And would you ever give the Board
15 input or feedback at those meetings?

16 A Very, very rarely I believe. They may ask
17 a question about how many schools applied or
18 something like that. It was never -- nothing that
19 became a policy decision. It was they were
20 extremely well versed, very respected people. I
21 mean, yeah. I mean the former superintendent for

1 20-plus years was that on Board.

2 Q And then did you ever have any individual
3 conversations or give any feedback to them either
4 offline at a Board meeting or through e-mail or
5 anything like that? Would they reach out for
6 information?

7 A Not directly to the Board.

8 Q Okay. Would most of those types of
9 requests go through Monica or Donna?

10 A Yes.

11 Q Okay. Let's see here. So I think what I
12 want to do is kind of talk to you about probably the
13 nondiscrimination requirement. I'm sure that's not
14 a surprise.

15 So when did you first become -- when was
16 the first time you remember -- strike that.

17 So you were involved in collecting
18 assurances for the nondiscrimination portion for the
19 Textbook program, correct?

20 A The assurance covered several line items.

21 Q Okay.

1 A The assurance contained several line
2 items. It wasn't just discrimination.

3 Q Right. Okay. So in the beginning, so in
4 2016, were there any other processes that you used
5 or employed with respect to the nondiscrimination
6 portion of the program or was it just you sent the
7 assurances out and you collected them?

8 A I mean we would respond to questions.

9 Q Okay. What kind of questions would the
10 schools ask?

11 A There were a few that would try to get a
12 little more clarification and ask about what their
13 concerns might be. The -- they -- yeah. I had the
14 conversation a few times with schools, just they
15 would call for clarification.

16 If I could not answer them, I would ask
17 them to put their question in writing. And then I
18 would run it up to Monica and let her review the
19 question and respond.

20 Q Okay. And so what portion of the
21 nondiscrimination requirement would the schools ask

1 about?

2 A Well, there was a little confusion over
3 that wording about the -- there was confusion over
4 the wording of that statement that says we will not
5 tell you, you know, what -- we ask you to install a
6 policy that conflicts with your statement of faith
7 basically.

8 Q Sure. Okay. So they would call you and
9 ask what does this mean.

10 What would you tell them?

11 A I mean I would say I mean it basically
12 says that your school is agreeing that you will not
13 discriminate. That's what it would say. That's the
14 way we interpreted.

15 Q But as far as the language about the
16 religious policies and that, what did that mean?
17 What did you tell them that meant?

18 A Says we do not care. That says it right
19 on its face. You can have any beliefs. We really,
20 really do not care. We don't even look at that. If
21 this is part of your statement of faith, that's

1 fine. That is -- we really don't care about your
2 religious beliefs. It's -- I mean that's your
3 school's right to believe and that's what is clearly
4 in the law. And we stated it in the assurances just
5 like it was in the law.

6 Q Okay. Ultimately at some point in 2017, a
7 problem came up, though, and the BOOST Board
8 receives a complaint from the Maryland PTA.

9 Do you recall that happening?

10 A Yes. I was at the meeting.

11 Q You were at the meeting.

12 Were you aware of the complaint before the
13 meeting occurred?

14 A No.

15 Q Okay. So once the Maryland PTA lodges
16 this complaint, what happens?

17 A What happens. We went back to our work
18 stations. I worked fairly closely with Felicia, who
19 was brought in as the BOOST coordinator. I was the
20 Textbook, and she was the BOOST coordinator. And
21 she worked closer with Monica.

1 You know, we always bounced things off of
2 each other. Just what's your opinion, you know.

3 So I'm not sure who said it, but between
4 us we said I guess if there's one, there may be
5 more. That was just reasonable. Wasn't pointed to
6 any specific religion. It was just, you know, this
7 is something that maybe we should look closer at was
8 the consensus.

9 And I went to Monica. And by that time,
10 we had run across one or two other ones and said we
11 don't think this is going to be the only one.

12 The next morning she came to us and said
13 yeah, if we're going to look at one, we should look
14 at them all.

15 Q When you said it occurred to you that if
16 there's one, there's probably more and that was a
17 consensus, who was the consensus among, you and
18 Felicia or other people too?

19 A I mean at that point it was just, you
20 know, just me and Felicia. We were only two people
21 that sat next to each other. I mean our cubes.

1 Q Right. When you went back to your cube on
2 that, had you received some direction from Monica or
3 the Board or anybody like that on what to do about
4 the fact that Trinity Lutheran had that language in
5 their handbook?

6 A No. We didn't feel it was really within
7 our scope. We were just looking for things that we
8 thought might be of concern. But we were never
9 really going to make the calls on any of these
10 decisions. This was just is this an issue or isn't
11 it. So we just wanted some clarification so we
12 could make the right decisions for the program.

13 But we didn't really make the decisions
14 for the program. But I mean whether it was an issue
15 that needed to -- concerning based on the law that
16 we were responsible for.

17 Q Okay. Did anyone like Monica or anybody
18 at MSDE or BOOST direct you or Felicia to look for
19 this kind of language from other schools at that
20 point?

21 A At that point, it was just a consensus

1 that, no. To be fair to all schools, we needed to
2 look at all handbooks.

3 Q So who initially, then, looked for this
4 kind of language from another school? Was it you?
5 Was it Felicia?

6 A It was both of us because obviously it's a
7 pretty big task. So what we did, the way it
8 transpired, there were currently BOOST checks that
9 were getting ready to go out. So just as a way to
10 make sure that -- it would be easier to hold up a
11 check from going out than asking for it back if
12 there was an issue based on higher-up's review. We
13 wanted to be sure that we looked at those first.

14 So that's where we took the list of just
15 the BOOST schools who were getting -- that we had
16 checks in hand ready to go out the door. So that
17 was the preliminary set of ones that we wanted to
18 look at and make sure we had eyes on every one that
19 was getting one of those checks.

20 Q I'm sure it would be more harmful for the
21 school to have to take that money and rely on it and

1 then give it back rather than just not get it in the
2 first place.

3 MR. SCOTT: Objection.

4 Q Anyway. So okay. So you guys have your
5 list of checks that you're going to give for a
6 particular school. And so it's you and Felicia
7 both.

8 How do you determine whether or not any of
9 these other schools might have a problem, as you
10 say?

11 Did you Google them? Did you have copies
12 of their handbook? How did you go about making that
13 determination?

14 A Okay. So we took that list of schools
15 that had the checks ready to go out. We first just
16 Googled the school name, found their website. I'd
17 say approximately 50 percent had their school
18 handbook right on their website.

19 Q Okay. And then at this point, you
20 identify at least one other one probably, right,
21 that had an issue?

1 A Yeah. I believe there were a couple that
2 were identified and highlighted before the actual
3 guidance came out from the attorneys, yes.

4 Q Got it. So at this point, had you and
5 Felicia told Monica or anybody else at MSDE hey,
6 we're going to do this or was it you found these
7 other ones and then you took it to Monica and said
8 hey, we found these other ones with issues?

9 A Yeah. We saw one or two other ones and
10 said no, I think we need to really -- we all agreed
11 that to be fair to all schools, we needed to look at
12 every single one.

13 Q Okay. And was that your decision or
14 Monica's decision? Who made that? Or was it the
15 three of you sat down?

16 A We worked for Monica. Monica would tell
17 us what to do. We would discuss our observations.
18 She valued our opinions.

19 Q So a decision gets made, then, to look at
20 all of them.

21 Was that something Monica said okay, do

1 it? Was that -- so I guess what I'm trying to ask
2 was was it you guys came to Monica and said we need
3 to review all the handbooks and then she said yes or
4 was it you received a direction from Monica to do
5 it?

6 A No. I mean I think the way it happened, I
7 may have told her at five o'clock, you know. And it
8 was basically I'll think about it or, you know. She
9 came in the next morning and came to us and said
10 yeah, we really do need to look at every one.

11 Q Okay. And then you mentioned so like you
12 guys Googled some schools and find their websites.
13 And I know you had all those checks ready to go.

14 So for the schools that didn't have a
15 handbook on their website, what would you do with
16 that situation?

17 A Well, they were -- the ones that were
18 there were reviewed, downloaded, or we made a
19 notation that it was out on their website, the
20 policy that we had looked at. And we would say
21 website okay or okay from what we had seen.

1 If it was a concern, we would highlight it
2 and keep it in a one to review or to get a ruling
3 on.

4 Did that answer your question?

5 Q Uh-huh. So did the checks go out then or
6 did you guys decide we're not going to send any
7 checks out until we complete this process?

8 A I'm really not sure of the exact -- again,
9 I was a Textbook person. So it wasn't my call when
10 checks went out.

11 Q Sure. Okay. So a decision gets made all
12 these handbooks have got to be reviewed. Some of
13 them you've already reviewed because they're on the
14 website.

15 And you flag it and then it goes into some
16 kind of a list presumably, right?

17 A Yes.

18 Q So again, because we'll get a transcript.
19 She's going to ask you to answer yes or no. And I'm
20 really bad at the uh-huhs and all that. That's why
21 she's going to do that. So okay.

1 So you put this on a list. So the request
2 goes out, schools have to send their handbook in.

3 How did you guys -- you know, it's the old
4 thing about eating an elephant. So I know that
5 there were like somewhere between 150 and 200
6 schools in the program at that time.

7 How did you guys manage that task of going
8 through all these handbooks?

9 A Okay. So what we did was we were also --
10 okay. When we finished going down the list of the
11 ones that had the checks, we found the handbooks we
12 could.

13 Monica prepared a e-mail notice I believe
14 I saw in one of those documents that said your
15 handbooks, all the handbooks are being reviewed
16 based on a situation that came up at a BOOST
17 meeting. You may be asked for a copy of your
18 handbook if it wasn't already reviewed. Basically
19 that's what that message to the schools was.

20 So yeah. The message went out to all the
21 schools. So they knew the handbooks were either

1 already looked at or if we could not access them on
2 our own, to expect a request from me or Felicia.

3 Q Okay. How many, if you had to --
4 approximately, because I know you won't remember
5 probably exactly. But how many of those handbooks
6 do you think you were able to find before you had to
7 put a request out?

8 A I would -- I believe I just said about
9 50 percent is about what we were finding.

10 Q Was that for all the schools in the BOOST
11 program or just a sample?

12 A No. That -- well, yeah. I mean that
13 probably number holds true for across the board, all
14 the nonpublic schools that we looked for.

15 Q Okay. And at this time, I think you had
16 mentioned that the nondiscrimination requirement was
17 pretty consistent among the programs.

18 Was the requirement for the Textbook
19 program the same as the BOOST program at that time
20 do you remember?

21 A It was always the same.

1 Q Okay. Okay. So the request goes out.
2 All these handbooks start coming back in.

3 How do you eat that elephant? How do you
4 divide them up? Do you take some, does Felicia take
5 some? How did that work?

6 A Okay. So once we got through the ones
7 associated with the BOOST checks, we were also at
8 that point in the middle of accepting all the
9 applications for the Textbook program. That happens
10 between mid September and December 31st is when
11 schools apply for the Textbook program.

12 We used the application, the incoming list
13 of schools that were applying for the Textbook
14 program, because that's the largest -- every other
15 program is a subset of that list of schools. So we
16 cut and pasted right from the Textbook application
17 all of the schools who had applied to Textbook. And
18 we printed out the list. It was alphabetically,
19 alphabetical.

20 And I believe we drew the line at the Ss,
21 because I was more bogged down with just approving

1 normal Textbook stuff at the time. So Felicia did
2 up to S, and I did S and above. That was how we
3 split up the list. But that, we figured that would
4 cover all schools going forward.

5 Q So you reviewed all the schools that had a
6 name starting with the letter S, as in Siera,
7 through Z?

8 A Yeah. I mean just the way they fell
9 alphabetically in the list. We just had to split
10 the list between the two of us. So we drew a line
11 at a letter of the alphabet, which gave us random.
12 There was no by religion or anything.

13 Q Although, you probably received, would you
14 agree that you probably received a disproportionate
15 number of Catholic schools by virtue of them
16 starting with the word Saint as opposed to what
17 Felicia had?

18 A Yes. There was a lot of Saint schools. I
19 have five St. Mary's. Yeah. I mean...

20 Q Yeah. Okay. So it wasn't that you just
21 took the very tail end, you had a pretty substantial

1 portion of the list yourself?

2 A Oh, yes. Ss pop up pretty good.

3 Q So you're reviewing S through Z.

4 And you are looking in the handbook for
5 each one of these schools, which I'm sure took a
6 while?

7 A Over a few months we were reviewing them
8 because I mean technically the Textbook program, the
9 order system starts in March. So we were -- I guess
10 all this was between December and March, April. The
11 last decisions actually happened in the middle of
12 June. Two days before the Textbook order window was
13 ready to close, the last two schools were allowed
14 into the program.

15 Q Okay. So as you're reviewing those
16 Textbooks and it takes some time, how do you go
17 about that? Walk me through the process of like,
18 okay, here is St. Stephen Martyr School, what do you
19 do?

20 A We'd start at page one. We'd look at the
21 index. We'd scan through the pages, look at the

1 headings. I mean obviously you don't have to dig
2 too deep into a dropoff policy, inclement weather
3 policy. You know, you can scan over those fairly
4 quickly.

5 Schools, if they have a statement of
6 faith, that was totally fine. We had no issues with
7 that.

8 We see an admission policy, see a conduct,
9 you know, conduct, what do you call it, a -- you
10 know, a disciplinary section. There were a couple
11 of sections that where it usually would show up in
12 those categories. We would go from cover to cover.

13 Q Would you review these electronically or
14 paper copy?

15 A Electronically.

16 Q Okay. Did you ever do word searches or
17 control-F, like a control find function on any of
18 the handbooks?

19 A No. I would be more afraid of actually
20 skipping over. I mean it's something -- because the
21 words could be different and the context or the way

1 it's worded. Every one, most -- not every one, but
2 it was very common for different language from
3 handbook to handbook.

4 Q Okay. Okay. So you go cover to cover.
5 There's some sections you feel comfortable that you
6 can scan on. There are other sections that you know
7 were things you're usually going to find.

8 What were those sections, the ones that
9 got more attention?

10 A Obviously we would look at the
11 discrimination statement if they had a particular
12 topic heading on that. Admissions under whatever
13 was listed under there.

14 If we saw a statement of faith, that was
15 fine. We didn't really zoom in, focus on that.

16 Yeah. The -- if there was a disciplinary
17 or, you know, policy basically. That was the areas.
18 I mean if something was different, we would look at
19 it or if we didn't -- there was usually four or five
20 different areas where these would show themselves.

21 Q So when you say if something was

1 different, what do you mean by that?

2 A I mean some schools would have a heading
3 for one thing and not for -- the next school might
4 not. I mean some handbooks were five pages and some
5 were 125 pages.

6 Q I've looked through a lot of them myself.
7 So I understand what you're talking about. Okay.

8 So how would you determine, then, like
9 let's say you're looking through these handbooks,
10 how would you determine what was concerning and what
11 was not?

12 A Just based on our reading of the language
13 in the law that we were, you know, had to adhere to.
14 If it was questionable, we raised a flag. If we
15 didn't feel comfortable that it met the law's
16 wording, we thought it was maybe too ambiguous or it
17 was, there was concern, maybe they said it in
18 different places and then linked it all through a
19 circular notation, we would just say let's get
20 another opinion on this. Let's all read it. Let's
21 discuss it.

1 And if Monica wasn't comfortable or what
2 she thought the next step was, it might get an
3 e-mail to the Attorney General's Office to get their
4 opinion.

5 Q Okay. And then you say, you were talking
6 about if language was questionable.

7 How would you determine whether it was
8 questionable or not?

9 A I mean I'm not a lawyer. So I'm not
10 trying to say that I know 100 percent. It's just if
11 I just read it and it did not, based on the policy
12 and the law, if it was too close to call, I would,
13 we all would ask for a second opinion.

14 Q Okay. And then so did you have -- you say
15 you're not a lawyer.

16 Did you have any kind of rubric or
17 guidance or anything at that point to go off of or
18 was it just a judgment call?

19 A I mean there was a couple weeks to a month
20 where I guess we didn't, where we just had what our
21 own interpretation as a group of what the law was.

1 That was our only basis we had until we received the
2 guidance from the Attorney General's Office that we
3 used.

4 And at that point, since we had already
5 reviewed several, if any of the ones who had been
6 flagged as maybe having an issue, they were reviewed
7 again to see where they fell into place based on the
8 guidance we received.

9 So we did go back, used that guidance we
10 had received to review the ones that we had looked
11 at previously but they were just highlighted as a
12 possible issue.

13 Q But not the ones that you did not find an
14 issue with initially, correct?

15 A Well, I mean if -- they would have been on
16 the highlighted flag list of borderline or concern
17 because there was the three categories were
18 pretty -- the first two were pretty clear. The
19 third one was a little more not clear. And those
20 are the ones that eventually they said were fine and
21 were pushed through.

1 Q So when you say there's like the different
2 types, you put them into the little we'll call it
3 categories or buckets, did you and Felicia kind of
4 siphon them off initially or how did that process
5 come about?

6 A We always worked off the same list with
7 the incoming Textbook applications.

8 Q Okay. But I guess I want to just get
9 clarification because I think maybe I didn't state
10 my question clearly enough earlier.

11 So when you had the new guidance that came
12 to you, right, you say from the Attorney General's
13 Office, first of all, do you know when that was that
14 you received that, approximately?

15 A January. I'm guessing. I believe. I
16 mean I know we had, were still -- I don't know for
17 sure. That's a -- maybe because it was five years.

18 Q Yeah. It checks out.

19 So you get that guidance. And then there
20 are those schools that you already reviewed. And
21 you said you had some that were highlighted that

1 were maybe questionable or whatever.

2 So the ones that did not get highlighted,
3 you didn't take that guidance and then go back and
4 review those ones, right?

5 A Well, any of the ones that were already
6 deemed okay, the guidance didn't shed new light on.

7 Q Okay.

8 A So they would not have been a problem.

9 And I'll also add preschools, we did not
10 look at handbooks for preschools.

11 Q Okay. Why not?

12 A It was just in our reviews up to that
13 point, you know, that there was never any language
14 in a preschool's handbook. And that initial review,
15 we were also trying -- we just wanted to limit that
16 sheer number because there was 400 schools actually
17 that apply for the Textbook program. A little
18 under, 396 I think we're at. So the BOOST list is
19 only about half of that total list.

20 Preschools can participate in Textbook
21 program and one of the other Aging School programs.

1 Q Right. But I think you have to have more
2 grades in order to participate in BOOST; isn't that
3 right?

4 A Kindergarten plus an additional grade.

5 Q Okay. That makes sense. So okay. So
6 then you go through this. You're flagging things
7 that are of concern.

8 What kind of things are you looking for?
9 What kind of words, phrases? What kind of language?

10 A Just specific wording that, you know,
11 basically wording in a number of ways that basically
12 said we reserve the right to discriminate. I mean
13 that's...

14 Q What kind of specific wording, though?
15 Like what are the phrases you would look for or
16 find?

17 A In the admission section, I mean some
18 would -- that no one, no homosexual students will be
19 admitted. I mean there were ones that were
20 straightforward clearly that just the wording or
21 the -- just, you know, we wanted to get another

1 opinion or just get everybody to agree where it fell
2 in line with our guidance.

3 Q Sure. So you mentioned when you say fell
4 in line with your guidance, are you talking about
5 the guidance you received in January or a different
6 guidance?

7 A January. January was the date we guessed
8 when we -- we believe is the date of the AOG
9 guidance letter.

10 Q Okay. So before you had that guidance,
11 and you say okay, some of them said we will not
12 admit any homosexuals students. That's fine.

13 But there were other schools that you've
14 mentioned were questionable, correct?

15 A Right. They were the language that we had
16 presented to the AOG's Office to review that we
17 wanted an opinion on.

18 Q Okay. So what specific language, what are
19 examples of specific language or types of words that
20 would fall into that category?

21 A Well, I mean it could vary so much from

1 handbook to handbook. Every school is different.
2 Some whole groups of schools use the same statement.
3 So that was a different thing.

4 But I mean it just depended on the words.
5 I have to look at a couple of examples and say this
6 would be concern, if you want to do that.

7 Q Okay. Let's go ahead and do that. I'm
8 going to show you --

9 A -- where it fell on a heading. If you
10 reserve the right to, you know, because of
11 homosexual conduct and it's under your admission
12 statement, that's your admission policy.

13 Q Okay. And did anyone tell you that that
14 was the case or that was just your personal
15 interpretation of it?

16 A We were reading the words from their
17 handbook.

18 Q Okay. But as far as -- go ahead. I'm
19 sorry.

20 A It was just based on what we -- the words
21 in their handbook.

1 Q Okay. So you would forward questionable
2 language to the Attorney General's Office and
3 probably you would loop in, before that -- strike
4 that.

5 So you would find this questionable
6 language, it would go on a list of schools.

7 And then how would you guys do it? Would
8 you and Felicia talk about it or would you take it
9 to Monica first or would all three of you sit and
10 have a conversation? How was that typically
11 handled?

12 A Typically, if I saw one, I would print a
13 copy of the handbook. If Felicia saw one, she would
14 print a copy of the handbook, give it to me. I
15 would give it to her, she'd read it. We'd say why
16 we had a concern about it.

17 And then it went on to Monica, whether
18 Monica sent it to AOG or grouped it under a category
19 that she was presenting to AOG, I don't -- that was
20 beyond us.

21 We just read them. And if we saw

1 something that we weren't sure about or it didn't
2 make sense, and then usually Monica -- okay. That's
3 basically it.

4 Q Okay. So would Felicia always, anytime
5 she flagged a handbook, would she always show you or
6 were there times where she just made the decision
7 herself for the A to R schools?

8 A No. If there was ever one that was
9 questioned, it was -- it went through the -- it was
10 discussed. And then I mean if both of us said yeah,
11 this is one we need an opinion on, it went to
12 Monica. That's...

13 Q Were there ever instances where you found
14 a problem with one but Felicia didn't or Felicia
15 found a problem with a handbook and you didn't?

16 A I believe there were. I mean yeah.
17 That's why we wanted a second opinion, because we
18 didn't feel comfortable one of us maybe making the
19 decision based on our not being a lawyer.

20 Q Right. Okay. Before I get into more
21 handbook analysis and all that, so then, you compile

1 a list of the ones that have problems.

2 What happens to that list?

3 A The list was I guess brought up to the
4 Board at the BOOST meeting, these are the concerns.

5 There was also, let's see, there were
6 e-mails that went. The list, I believe it was 13.
7 And there was a letter that went out. Monica sent
8 letters to those particular schools and shared with
9 them the particular wording that was an issue.

10 And we were told we could share the AOG's
11 guidance. We shared that with the schools.

12 Q Who told you you could share that
13 guidance?

14 A I believe it was -- that's what I was told
15 from Monica, was told by one of the AOG
16 representatives.

17 Q Great. Jamie, did you share that guidance
18 as a matter of course? So if a school got a letter
19 asking about their handbook, did they also receive
20 the AOG guidance?

21 A If someone called and told me that they

1 were, they need a little more clarity or they wanted
2 to understand this a little better, I would send
3 them that.

4 Q Okay. But you were not directed by
5 anybody to give them the guidance necessarily?

6 A No. I mean I -- Monica would say it's
7 okay to go ahead and send them the guidance.

8 Q And what was the purpose of sending them
9 the guidance?

10 A To answer their question about clarity
11 that they were looking for.

12 Q Sure. Did you send them the guidance to
13 help them navigate the BOOST law?

14 A To navigate the BOOST law. No. It was
15 just to provide them with the basis of, you know,
16 the decision or the situation that was being
17 reviewed and they could take it to their powers that
18 be within their school to -- lots of times they had
19 to meet with a Board.

20 Q Sure. I guess, I'm sorry, when I said
21 navigate, I probably should have said a different

1 word.

2 Was it to help them understand your
3 interpretation of the law?

4 A I mean it was to help them to understand
5 the Office of the Attorney General's interpretation
6 of the law.

7 It wasn't my interpretation in the end.
8 We really -- that was, that was the yes or no. I
9 mean, well, AOG didn't make any of the decisions.
10 It was up to the BOOST Board based on guidance that
11 was given.

12 Q Okay. So you mentioned that Monica, there
13 was letters that got sent out to the schools that
14 found themselves in this questionable bucket we'll
15 call it and they needed to give an explanation.
16 Right?

17 A Well, clarity, clarify what their position
18 was.

19 Q Okay. I want to show you a document
20 that's been marked as Exhibit 59.

21 MR. SCOTT: I'm sorry. Paul, what exhibit

1 is this?

2 MR. SCHMITT: Fifty-nine, five-nine.

3 MR. SCOTT: Thank you.

4 MR. SCHMITT: Whoever at Veritext is
5 there, I can't do screen sharing, which I need
6 to do.

7 THE VIDEOGRAPHER: One second. I'll go
8 ahead and enable that for you.

9 MR. SCHMITT: Thank you.

10 THE VIDEOGRAPHER: You should be able to
11 share your screen now.

12 MR. SCHMITT: All right. Thank you.

13 (Exhibit 59, Kearns Letters to Flagged
14 Schools Dated 3/5/18, was previously marked for
15 identification. Exhibit to be attached to the
16 transcript.)

17 Q Jamie, if I need to zoom in or scroll on
18 stuff, let me know. I'm going to zoom in right now.
19 But if you need more or less at any point, just let
20 me know. Okay?

21 So do you see this document that I've

1 marked Exhibit 59 here?

2 A Okay.

3 Q Do you see that it says Bethel Defendants
4 3526 on the bottom?

5 A Yes.

6 Q That's called a Bates stamp. That's how
7 I'll refer to it from now on on documents like this.

8 Do you see the MSDE letterhead at the top?

9 A Yes.

10 Q Okay. Do you recognize this document?

11 A Yeah. I believe this was -- basically it
12 must have been, yeah, they're an example of what had
13 raised an issue in their, right, the handbook
14 language.

15 Q Okay. And do you see that Monica signed
16 it?

17 A That's exactly what we were just talking
18 about, the notices.

19 Q Okay. So this is one of the notices?

20 A Yes.

21 Q Okay. I think this document contains a

1 bunch of them. Let me scroll down to one of the
2 handbooks that you would have reviewed. Okay.

3 Do you see this letter?

4 A Yes.

5 Q Okay. Do you see that it is on Bethel
6 Defendants 3526.015?

7 A Yes.

8 Q Okay. Just take a minute to take a look
9 at it.

10 And then once you've recognized it, tell
11 me what it is.

12 A This was the same letter to a different
13 school sharing the wording that was in their
14 nondiscrimination policy and asking for
15 clarification basically.

16 Q Yeah. So what school was it?

17 A This was St. Joseph's Regional Catholic
18 School.

19 Q Are you familiar with that school?

20 A I know that they're in the program and I
21 know they're a Catholic school.

1 Q Okay. Because their name is -- sorry. Go
2 ahead.

3 A That's all I know.

4 Q Okay. So because their same is
5 St. Joseph's, they start with an S, correct?

6 A Yup.

7 Q So would this have been one of the schools
8 that you reviewed?

9 A Well, it would depend on if we found the
10 handbook originally, if they were a BOOST check that
11 was getting ready to go out the door. They could
12 have been on the first set of schools that were --
13 we went out and pulled it off website or
14 subsequently asked for a copy of. I can't really
15 say whether I reviewed this one or not.

16 Q But if there had been a flagged issue,
17 didn't you tell me that you and Monica and Valerie
18 would talk about it?

19 A Right, right. If they were on the list,
20 if they received one of these letters, they were
21 highlighted as a concern that needed clarification

1 or we needed to get an opinion on.

2 Q Okay. Okay. This letter includes, all
3 these letters really, but this letter in particular
4 includes a copy of language that you guys flagged,
5 correct?

6 A Yes, yeah. The highlighted was directly
7 the situation. Students admission, the reasons, the
8 following -- under the title of admissions
9 information.

10 Q Okay. Could you go ahead -- actually,
11 that's helpful. Could you go ahead and read that
12 highlighted?

13 So looking at the page that you've flagged
14 here, which says at the top admissions information,
15 could you go ahead and read the text that you
16 highlighted?

17 A Sure. Students seeking admissions to
18 Catholic schools, for reasons that violate Christian
19 principles, will not be admitted.

20 Q Okay. Why was that language flagged?

21 A It wasn't -- it was the question is it's

1 vague, which Christian principles, are they
2 referring to a specific Christian principle, and it
3 relates to admissions. So...

4 Q Okay. What kind of Christian principles
5 would cause a problem for admission and
6 participation in BOOST?

7 A Well, I mean if it was clearly said that
8 it was a Christian principle related to homosexual
9 or gender or identity, but it's not clear. So it's
10 ambiguous.

11 Q So does this say that?

12 MR. SCOTT: Objection. Document speaks
13 for itself.

14 Q You can answer.

15 A Yeah. We were just reading the words.
16 And that in itself is not clear to me.

17 Q So what were the words in this statement
18 that raised a question for you?

19 MR. SCOTT: Objection.

20 Q You can answer.

21 A I mean, first of all, it's under the

1 category of admissions information.

2 Q Okay.

3 A And the words.

4 Q Which words?

5 A The highlighted sentence.

6 Q Which words within those highlighted
7 sentence are problematic?

8 MR. SCOTT: Objection. Asked and
9 answered.

10 Q You can answer.

11 A I mean students, if you're seeking
12 admission to the school and you violate their
13 principles, you will not be admitted. That sounds
14 like it's saying if you don't adhere to the
15 principles, we have the right to discriminate
16 against you.

17 Q Okay. Beside the words Christian
18 principles, are there any other words in here that
19 are objectionable?

20 MR. SCOTT: Objection.

21 A No. I didn't say -- I said the whole

1 sentence. It's in the same sentence. It says
2 seeking admission.

3 Q Why was it that this phrase, what is it
4 about Christian principles that caused concern?

5 MR. SCOTT: Objection. Asked and
6 answered.

7 A We just don't know what principles you're
8 referring to.

9 Q Okay. Do other faiths outside of
10 Christianity have teachings on gender or sexuality?

11 MR. SCOTT: Objection.

12 Q You can answer.

13 A Sure. Every -- as we say in our
14 assurance, you can -- we were not telling you what
15 your beliefs are. That's fine. You can...

16 Q Okay. Let's see. Okay. Do you recognize
17 this document?

18 This would be on Bethel Defendants
19 3526.017.

20 A I mean I know the school.

21 Q O okay. Do you recall reviewing their

1 handbook?

2 A I don't recall which ones, you know. Like
3 I say, they could have been reviewed as part of the
4 first batch that had a BOOST associated check or
5 they could have been part of the list where we split
6 at the Ss.

7 We were working whenever we could up to a
8 certain point. I mean maybe we -- yeah. I really
9 don't recall if I pulled this one or not.

10 Q Okay. Is this document for St. Louis
11 School in Clarksville?

12 A It is.

13 Q Okay. Do you see the letter includes a
14 portion of the handbook that's titled
15 administration?

16 A Yes.

17 Q And then do you see that there is a
18 portion of the school's admission policy included
19 there?

20 A Correct.

21 Q Okay. What is the portion that, what is

1 the highlighted portion that was sent to the school?

2 A You want me to read that?

3 Q Sure.

4 A It is the policy of St. Louis School not
5 to discriminate against any applicant because of
6 gender in any educational program and activity.
7 Additionally, students seeking admission to the
8 Catholic schools as a refuge or haven or for reasons
9 that violate the Christian principles upon which the
10 schools are founded are not to be admitted.

11 Q Okay. Who would be students seeking
12 admission to Catholic schools as a refuge or haven
13 for reasons that violate Christian principles?

14 MR. SCOTT: Objection.

15 A That's a good question. That's why we
16 would run it up the flagpole because we weren't
17 comfortable interpreting that.

18 Q Okay. And what exactly about that phrase
19 caused concern or made you uncomfortable?

20 A The fact that it's under the heading of
21 admission policy and the last words are are not to

1 be admitted. And then a relation -- and then a
2 tying to Christian principal that's not clear,
3 clearly stated.

4 Q Are there objectionable Christian
5 principals?

6 MR. SCOTT: Objection.

7 A I -- no, not if it's under your statement
8 of faith. You can believe anything you want.

9 Q Are there Christian principles that are
10 inconsistent with the BOOST law?

11 MR. SCOTT: Objection.

12 A That's not my place to make that call.

13 Q Well, I mean you did make that call
14 because this handbook got flagged for review, right?

15 MR. SCOTT: Objection. Mischaracterizes
16 testimony.

17 A No. We just asked -- these schools were
18 asked because we wanted clarity to make the best
19 decision going forward.

20 Q Okay. Let's see. Is there another one
21 here? Okay.

1 Do you see this school?

2 A St. Margaret.

3 Q Okay. And this is on Bethel Defendants
4 3526.019.

5 This is St. Margaret's School in Bel Air.

6 What was the phrase in their admissions
7 policy that caused concern?

8 A The school reserves the right to deny
9 attendance to anyone whose behavior is contrary to
10 the teachings and ideals of the school or whose
11 behavior is contrary to the teaching and ideals of
12 the school or whose behavior is or attitude is
13 disruptive to the functioning of the student body.

14 Q Okay.

15 A Right. And again, under admissions,
16 reserves the right to deny attendance because of
17 behavior. Which isn't clearly defined. So we
18 thought that needed a little clarity. What behavior
19 are you referring to I guess was the question.

20 Q What kind of behavior would the school
21 have to ban to violate the BOOST law?

1 MR. SCOTT: Objection.

2 Q You can answer.

3 A What would they have to ban. We don't
4 care what you -- what would -- you want to repeat
5 that?

6 Q Sure, sure. So the school is reserving
7 the right to deny attendance to anyone whose
8 behavior is contrary to the teachings and ideals of
9 the school.

10 And then I think they've got a typo in
11 here because they repeat that phrase again.

12 But if the school reserves that right,
13 what's the kind of behavior that they would ban that
14 would bring them into conflict with the BOOST law?

15 MR. SCOTT: Objection.

16 Q You can answer.

17 A That was what we wanted to find out. That
18 was our question to them, what is this behavior that
19 you are reserving the right to deny admission.
20 We're not clear. We don't understand. We wanted
21 clarity.

1 Q Would a school conflict with the BOOST law
2 if they banned disruptive behavior?

3 MR. SCOTT: Objection.

4 A Specifically that's nothing in the law
5 that says anything about disruptive behavior.

6 Q Okay. Did anything in the BOOST law
7 address student behavior and admissions policies
8 related to student behavior?

9 MR. SCOTT: Objection.

10 A No. It just says that a school cannot
11 discriminate in admissions.

12 Q Okay. Let's see if there's any more.
13 Okay.

14 So if you had not flagged language, you or
15 Felicia had not flagged language, you're talking
16 about needing clarity and need to send it up the
17 flagpole.

18 If you and Felicia would not flag
19 language, would that language be sent up the
20 flagpole or would the handbook be sent up the
21 flagpole?

1 A Okay. Not to Monica.

2 We did have -- we had a compliance group,
3 who the leader of the compliance group has gone on
4 to become the State of Maryland's inspector general
5 of education. He was in charge of reviewing these
6 handbooks after we had finished all of the school,
7 list of schools were sent to him.

8 They randomly selected ten percent,
9 requested copies of all those handbooks, and they
10 reviewed.

11 And plus if we had subsequent after that,
12 if we ever had one that we had a concern with, we
13 would also send it to them to review.

14 Q When was the compliance group involved in
15 the process? Was it from the beginning with the
16 initial handbook review in 2017 and '18?

17 A Not until it was actually in the law.

18 Q So when would that have been?

19 A That first time we started looking at it.
20 It was the year after.

21 Q So 2018?

1 A Yes.

2 Q It would have been the 18-19 school year?

3 A I believe so. It wasn't -- yes.

4 It wasn't officially in the law. Like we
5 anticipated that question to come up, whether we had
6 looked at other handbooks. So we wanted to be sure
7 that everybody involved with these programs has gone
8 out of their way to make sure they were equitable
9 and fair to all schools.

10 Q Okay. So would the compliance group have
11 looked at the handbooks of these schools in March of
12 2018 or did that come after?

13 A I can't recall exactly when that group
14 started reviewing these, to be honest. I really...

15 Q Okay. I know this because I've researched
16 it before.

17 But what is the name of the inspector
18 general now; do you remember?

19 A Rick Henry.

20 Q So it would have been Rick and Rick's
21 group who would get referred these things after it

1 was flagged by you and Felicia?

2 A No. Well, yeah. On subsequent,
3 subsequent, they would always review besides their
4 random ten percent.

5 They would -- they also visited schools.
6 I think they hit over 20 percent of the schools the
7 first year they were operating. I visit
8 five percent of the schools and they hit 20 percent
9 the first year they were operating.

10 Q Okay. And that's for Textbook or BOOST or
11 both?

12 A That's Textbooks.

13 Q All right. I'm going to stop my screen
14 share.

15 Let's see. I'm sorry. That's not the one
16 I wanted.

17 I'm going to pull something else up. This
18 was previously marked as, still marked actually, as
19 Exhibit 31.

20 (Exhibit 31, House Bill 150 - Budget Bill
21 2018, was previously marked for identification.

1 Exhibit to be attached to the transcript.)

2 Q Do you see that I've marked this document
3 as Exhibit 31 there?

4 A Yes.

5 Q And then it's got a stamp at the top of
6 0058. It was an Exhibit Number 2 to the Motion for
7 Preliminary Injunction in the Bethel case.

8 Do you recognize what this is?

9 I can zoom in if you'd like.

10 A Yeah. That's the annual budget bill that
11 authorizes the funding.

12 Q Okay. I'm going to roll down onto BOOST.
13 Okay. I'm looking at section R00A03.05, zero-five,
14 broadening options and opportunities for students
15 today, special fund appropriation.

16 Is that right?

17 A That's correct.

18 Q Okay. Do you see that it says to be
19 eligible to participate in the BOOST program, a
20 nonpublic school must, and then it gives a list of
21 requirements? Is that right?

1 A That's correct.

2 Q Okay. Could you look at subsection D?

3 Okay.

4 Do you recognize this?

5 Was this the BOOST law at the time that
6 you were engaging in the handbook review in would
7 have been 2017, 2018?

8 A Yes, it is.

9 Q Okay. And it says that nothing herein
10 shall require any school or institution to adopt any
11 rule, regulation, or policy that conflicts with its
12 religious or moral teachings, correct?

13 A That's correct.

14 Q With those handbooks we just reviewed that
15 identified behavior that was contrary to their faith
16 or their religious teachings, how would you
17 reconcile those schools being flagged with this
18 language in the law?

19 MR. SCOTT: Objection.

20 Q You can answer.

21 A This is the basic same language in all the

1 programs. It's uniform across all the programs.

2 How would we reconcile. I mean that's
3 why -- I mean like we -- this is exactly what I just
4 said before about your statement of faith is fair
5 game for any school can believe and have their own
6 beliefs and teachings. That's fine.

7 Q Okay. But if a school mentions items of
8 their faith in their admissions policy, did that
9 draw a flag?

10 A It would because it says however, all
11 participating schools must agree that they will not
12 discriminate in student admissions.

13 Q Okay. Does this say anything about
14 student discipline?

15 MR. SCOTT: Objection. Document speaks
16 for itself.

17 Q You can answer.

18 MR. SCOTT: Are you asking about the
19 entire document, counsel, or just one
20 particular section?

21 MR. SCHMITT: Just the subsection that

1 I've been asking about.

2 MR. SCOTT: Which is which section, D?

3 MR. SCHMITT: D.

4 A Right. It does not specifically mention
5 discipline.

6 Q Okay.

7 A We were given guidance.

8 Q Okay. And that's on Bates number 0062,
9 subsection D. So okay.

10 It doesn't mention student discipline.

11 Does it mention anything about student
12 behavior?

13 MR. SCOTT: Objection. Document speaks
14 for itself.

15 Q You can answer.

16 A No, it doesn't say behavior. But yeah.
17 Each handbook and this document speaks for itself.
18 I would agree.

19 Q Great. Does it mention anything about
20 student conduct?

21 MR. SCOTT: Objection.

1 Q You can answer.

2 A It specifically does not pinpoint student
3 conduct, but...

4 Q Okay. Great. Thank you. Let's see where
5 we're at.

6 MR. SCOTT: Paul, can we take a break?

7 MR. SCHMITT: Yeah, if you'd like, Rob.

8 MR. SCOTT: Thank you.

9 MR. SCHMITT: Yup. Ten minutes?

10 MR. SCOTT: Sure.

11 THE VIDEOGRAPHER: Okay. I'll go ahead
12 and get us off the record.

13 Off the video record at 11:12 a.m.

14 (Recess taken.)

15 THE VIDEOGRAPHER: This is the beginning
16 of media unit number two.

17 We are back on the video record at
18 11:26 a.m.

19 Q Okay. I think the last thing we were
20 looking at, Jamie, was the BOOST law.

21 Let's go look at something else. Okay.

1 So we were talking about before different
2 schools, how you and Felicia and Monica would flag
3 things and they would get forwarded up the flagpole
4 or up the totem pole for further review. And then
5 you mentioned also that you had received some
6 guidance at a certain point. You guessed that it
7 might have been January of 2018.

8 So let me show you a document that I've
9 marked as Exhibit 33. Hang on just one second while
10 I remember how to share my screen.

11 (Exhibit 33, Memo to Matt Gallagher and
12 Monica Kearns from Elizabeth Kameen and Alan
13 Dunklow Dated 1/9/18, was previously marked for
14 identification. Exhibit to be attached to the
15 transcript.)

16 Q I'm going to zoom in on it.

17 Do you see that I've marked this document
18 Exhibit 33 and that it's got a Bates stamp number on
19 it Bethel Defendants 1332?

20 A Correct.

21 Q Okay. Go ahead and take a second and

1 familiarize yourself with it.

2 A Okay.

3 Q Okay. Do you recognize this?

4 A Yes.

5 Q Okay. You've seen it before.

6 What is this document?

7 A This was the guidance we received.

8 Q Okay. And who is it from?

9 A It is from Elizabeth Kameen and Alan
10 Dunklow at the Office of the Attorney General.

11 Q Okay. It's addressed to Matt Gallagher
12 and Monica, correct?

13 A That's correct.

14 Q Okay. And it talks through the issue with
15 Trinity Lutheran. And it says that MSDE has
16 confirmed that Trinity Lutheran received BOOST
17 scholarship funds from the 16-17 school year. And
18 then it goes on to talk about some questions came
19 up.

20 And one of the things the document says,
21 and this is on 1332.001, the first page, it says

1 first there is a question of whether certain
2 language in a nonpublic school's handbook
3 constitutes discrimination on the basis of sexual
4 orientation.

5 Do you see that?

6 A Yes.

7 Q And then what does it say after that
8 portion, this sentence that I've highlighted there?

9 A The answer to this question will guide
10 MSDE as it continues to review its review of
11 handbooks, which may lead to the identification of
12 additional schools as having discriminatory
13 admission policies.

14 Q Okay. So this document was produced,
15 given to you as guidance.

16 And then do you see that it quotes the
17 language we just went through just a second ago,
18 which was the BOOST law's nondiscrimination
19 provision?

20 A Correct.

21 Q Okay. What does it say then after it

1 quotes the nondiscrimination provision?

2 A After reviewing a number of nonpublic
3 school handbooks, MSDE has identified a few
4 different ways in which schools address sexual
5 orientation. The specific language --

6 Q Go ahead. Sorry.

7 A The specific language used in each
8 handbook varies slightly, but it generally fits into
9 one of the three categories.

10 Q Okay. And then it says that they're going
11 to analyze three categories.

12 I don't want you to have to read this, but
13 could you tell me what were the three categories
14 that schools fell into?

15 A Okay. The category one was it was just
16 straight up on its face discriminatory the way it
17 read. There was specific wording that was of
18 concern. And that's basically saying reserve the
19 right to refuse admission.

20 Q Okay.

21 A The second one, slightly different. It

1 just referred to generic sexual misconduct.

2 Q Okay. And then what was the problem with
3 the schools that, the language for schools that had
4 language about sexual misconduct? Why was that
5 potentially discriminatory?

6 MR. SCOTT: Objection.

7 A Sexual conduct -- can I answer?

8 Q Yeah.

9 A I mean the sexual conduct was sometimes it
10 would be specific and it would say this particular
11 homosexual conduct versus general sexual misconduct,
12 which for -- it just was -- only -- you know, the
13 way it reads, I mean this is the way it says. They
14 would just, yeah, they would tie it to feelings or
15 behavior.

16 Yeah. I mean it basically is still
17 reserving the right to exclude based on sexual
18 orientation, but it was a little bit slightly
19 different than the first one where it was implied a
20 little bit more.

21 Q Okay. And then what about the third

1 category of schools, what was going on there?

2 MR. SCOTT: Objection.

3 Q You can answer.

4 A They did not mention sexual orientation in
5 the context.

6 It was these were vague. These were just
7 more vague and these were where we were on the
8 fence. They needed to be discussed. And it was
9 something we just weren't comfortable about the
10 particular wording.

11 Q Okay.

12 A Or handbook.

13 Q So there were contexts where, just to
14 quote the document here on Bates stamp Bethel
15 Defendants 1332.002. So in the third category,
16 there were some schools that did not mention sexual
17 orientation but you were still uncomfortable with
18 the handbook language.

19 That's right?

20 MR. SCOTT: Objection.

21 Q You can answer.

1 A Well, we wanted clarification because we
2 didn't know if it was an issue or not. So we wanted
3 to -- we wanted an opinion. So that's why they went
4 up the flagpole and that was what this was in
5 response to.

6 Q And then what's the last line in the
7 paragraph talking about the category three schools?
8 What does that say, that last sentence?

9 A Each school, however, if it wishes to
10 participate in BOOST, must sign the assurance that
11 it does not discriminate in admissions.

12 Q Okay. So if a school had language that
13 was questionable but it signed the assurance, was it
14 okay then?

15 MR. SCOTT: Objection.

16 Q You can answer.

17 A It was only okay if the BOOST Board told
18 us that it was -- they discussed it or based on
19 feedback from the Office of the Attorney General.
20 They made the calls. It wasn't -- that was their --
21 Monica representing MSDE would bring it to the Board

1 to discuss.

2 Q Okay. When you meant that you needed
3 clarification, did the schools need to provide
4 something in writing explaining their policy or how
5 would you get clarification from them?

6 A Any schools that were flagged as an issue
7 were sent that letter that you saw from Monica
8 earlier that you had showed us.

9 Q And then when they provided clarification,
10 were you involved in the process of analyzing that
11 or interpreting it?

12 A No. That was between Monica and the
13 Board.

14 Q Okay. Did you ever give feedback or input
15 on any of the clarification that schools provided?

16 A I don't remember any specific ones.
17 Possibly just to Monica or our group in a group
18 discussion but never to the Board, who was
19 ultimately making the decisions --

20 Q So would Monica receive the clarification
21 and then ask you and Felicia what you thought about

1 it?

2 A Occasionally. I don't know about this
3 particular, any particular one. It was a while ago.

4 Q Okay. Let's see. Do I want to ask
5 anything else? Okay.

6 Then do you see this, which is attached to
7 that document?

8 I'm on Bates stamp 1332.004 now.

9 A Correct, yes.

10 Q What is this that I'm looking at?

11 A This looks like examples of the handbook
12 language that was in their handbook.

13 Q What school?

14 A This is Cathedral Christian.

15 Q Okay. Why don't you take a second.
16 Can you read that?

17 It's kind of small. Let me zoom in.

18 So this is Cathedral Christian's --

19 A Right.

20 Q -- policy handbook language, right?

21 A Yes.

1 Q Okay. Go ahead and take a second to read
2 through that and be familiar with it.

3 A Okay.

4 Q Okay. Looking through that example, why
5 do you think, what language in here raised a flag
6 that it needed to be included in the memo?

7 MR. SCOTT: Objection. Calls for
8 speculation.

9 A Yeah. It's hard to say when this was
10 reviewed before we first got it, when this -- what
11 was the date of this?

12 Q Well, this memo was produced on
13 January 8th. This is an attachment to that memo.

14 A That was part of the guidance. This was
15 the examples that were given.

16 Q Exactly. So what category would this
17 language fall into?

18 MR. SCOTT: Objection.

19 A This would have probably been a three
20 because it was just a little vague on the one line
21 that they were -- we understand that any violations

1 against the rules and regulations may result in
2 immediate dismissal from. And we just wanted to get
3 a little more clarity on what, you know...

4 Q Okay.

5 A Basically yeah. Because it wasn't under a
6 statement of faith. Is this admission requirements?
7 I can't remember.

8 But it's just right from the handbook and
9 it was, you know, these were given to them before we
10 had this guidance. So we were -- this was the
11 examples that they were providing back.

12 Q Okay. So I understand that it's vague.

13 But what exactly, what language exactly
14 was problematic here?

15 MR. SCOTT: Objection.

16 A Like I just said, the word, that immediate
17 dismissal. Any violations, immediate dismissal.

18 Q Okay. Do you know -- I mean I don't know
19 if you had kids ever or had kids in school.

20 Do public school ever dismiss students for
21 violations of their rules?

1 MR. SCOTT: Objection.

2 A I haven't been in public school for 45
3 years. So I can't -- I don't work on the public
4 school side.

5 Q Do secular private schools ever dismiss
6 kids for violating their rules?

7 MR. SCOTT: Objection.

8 Q You can answer.

9 A I guess they do.

10 Q Okay. So I guess I just don't understand
11 why a school reserving the right to dismiss someone
12 for violating their rules and regulations would
13 cause a concern. I'm not understanding that.

14 Can you help me understand why that was
15 concerning?

16 MR. SCOTT: Objection.

17 A Well, in the same paragraph, it talks
18 about requirements for admissions. I mean...

19 Q Okay.

20 A And it's vague on the -- Christ centered
21 environment. What does that mean necessarily? It's

1 just it's vague and we just weren't sure. Wanted a
2 little clarity.

3 Q So the school's desire to maintain its
4 Christ centered environment raised a concern then?

5 MR. SCOTT: Objection.

6 Q Excuse me. Let me rephrase.

7 It raised a question of what that meant?

8 A In the context --

9 MR. SCOTT: Objection.

10 A It only raised concern because of its
11 context within the same paragraph.

12 Q Okay. Let's see if there was anything
13 else in these examples that I wanted to touch on.

14 A And several of these schools were --

15 MR. SCOTT: Mr. Klarman, there's no
16 question pending. So please do not testify.

17 Q So Jamie, you see I'm down on page Bethel
18 Defendants 1332.007, right?

19 A Correct.

20 Q And do you see this is St. Joseph's
21 School?

1 Did we talk about them earlier?

2 A I believe we had.

3 Q And you see that it's got that segment
4 from the letter from Monica Kearns in here.

5 And this would have been in the guidance
6 provided to you and the BOOST Board, right?

7 A Correct.

8 Q Okay. And this is the line that was
9 highlighted in the other one said students seeking
10 admission to Catholic schools for reasons that
11 violate Christian principles will not be admitted,
12 correct?

13 A Correct.

14 Q Do you know what category of school would
15 this have fallen in?

16 A This would have been a three because it
17 was -- we just weren't sure what principles they
18 were talking about.

19 Q Okay. Okay. I think that's all there.
20 So okay.

21 So this is the January 19, 2018,

1 memorandum, right?

2 A January 9th.

3 Q Yeah. Good call. Is this still the
4 guidance that you use when you review handbooks for
5 the Textbooks program?

6 A It is.

7 Q Okay. Has there been any other version of
8 this guidance that you've used?

9 A No. This is -- I mean we are aware of the
10 changes to the law since.

11 Q Okay. So you've never seen any other
12 legal memo like this?

13 A I don't recall. I really don't, if it was
14 sent to me.

15 Q Okay. Let's ask about some changes to the
16 law here. Okay.

17 I'm going to show you Exhibit 57.

18 (Exhibit 57, E-mail Chain, was previously
19 marked for identification. Exhibit to be
20 attached to the transcript.)

21 Q Okay. And I'm going to show you. See

1 this? I've got a mark on this for Exhibit 57?

2 A Right.

3 Q And it's Bethel Defendants 0855?

4 A Correct.

5 Q Okay. Let me zoom in.

6 Do you recognize this e-mail chain?

7 A Yeah.

8 Q Okay. Do you see -- why don't you go
9 ahead and read me the message that you sent to Donna
10 Gunning and copied James Clark and Valerie Carpenter
11 on December 19th there of 2018?

12 A They are planning to apply but want to
13 confirm that their current handbook will pass the
14 review process. Last year we had Liz Kameen review
15 a few of these borderline category three from
16 attached handbooks.

17 Q Okay. And then what is the attachment on
18 this e-mail? Do you see that there?

19 A The enforcement of the, you know, the same
20 memo we were just reviewing I believe.

21 Q Okay. So we don't have to go through the

1 whole thing. I just wanted to make sure that that
2 was correct.

3 And this e-mail chain, if you want, we can
4 go through it all. I believe it's in December of
5 2018.

6 This would have been after Monica left and
7 when Donna was coming on board in the program; is
8 that right?

9 A Yes, yes. This was a Textbook
10 application.

11 Q Okay.

12 A It was a Textbook application review
13 question.

14 Q Okay. Actually let's take a quick look at
15 that.

16 Do you see this?

17 I'm down on Bates stamp Bethel Defendant
18 0855.002.

19 A Okay, yes.

20 Q Go ahead and take a look at that.

21 Do you remember this request?

1 A Let's see. Okay. I remember this
2 situation.

3 Q Okay. This is from Jacqueline or Jacqueli
4 Hutcheson, who I think, if I scroll down to the
5 bottom here, well, Jacqueline Hutcheson. She's an
6 administrative director at Oak Grove Classical
7 Christian School, right?

8 A Yes.

9 Q What was she asking about?

10 A She wanted us to review their handbook
11 before they applied to any of the programs, just
12 curious if their wording was, would pass the
13 interpretation of the law.

14 Q Okay. And then you told me earlier that
15 you would give the January 2018 memo to BOOST
16 schools that had questions, right?

17 A This was a Textbook program question.
18 This wasn't related to BOOST.

19 Q Right. But the nondiscrimination
20 requirements for Textbook --

21 A Right.

1 Q Okay. So would the memo be helpful to
2 people in the Textbook program, too?

3 A Oh, yes.

4 MR. SCOTT: Objection.

5 Q Okay. So she asked this question. And it
6 seems like she's trying to navigate the requirements
7 and some of their language in their handbook.

8 How would you advise schools that had
9 requests like this?

10 MR. SCOTT: Objection to form.

11 Q You can answer.

12 A If a school had this kind of question, I
13 would say, you know, here is the document, this is
14 what guidance we were given. Review your handbook.

15 Any of the schools that had concerning
16 words, the letters went out with the example.

17 I've had schools come to me and say well,
18 you're telling me to change my handbook. And I
19 would immediately say no, we are not telling you
20 what to have in your handbook.

21 Many times I would have the conversation

1 and a school would say we really do not
2 discriminate. And I would say well, based on this
3 guidance and the words in your handbook on its face,
4 this is discriminatory. If these words in your
5 handbook do not reflect your policies and beliefs,
6 then maybe you should talk to your powers that be at
7 the church and, you know, consider correcting your
8 handbook to whatever you really do.

9 They're telling me they don't
10 discriminate, but the words do. So that was the
11 conflict.

12 Q So would schools ever correct their
13 handbook?

14 A A couple of schools did choose to correct
15 their handbook.

16 Q What kind of changes would they make to
17 correct their handbook?

18 A Sometimes eliminate the wording that was
19 in conflict.

20 Q And do you recall any examples of wording
21 that would be in conflict?

1 A The wording that they were told was in
2 conflict from their letters that you showed.

3 Q So like the wording about Christian
4 principles?

5 MR. SCOTT: Objection.

6 Q Is that an example?

7 MR. SCOTT: Objection.

8 A Christian principles were fine as long as
9 it was in a statement of faith.

10 Q Okay. So as long as the schools kept
11 their Christian principles in their statement of
12 faith and not elsewhere, then there was no problem?

13 MR. SCOTT: Objection.

14 Q You can answer.

15 A I mean I'd have to look at the words and
16 get an opinion from my superiors.

17 Q Okay. Let me stop sharing that one.

18 Let's see if I've got another one here.
19 There we go. Okay.

20 I'm going to show you a document that's
21 been marked Exhibit 34. Okay.

1 (Exhibit 34, List of Non-Compliant
2 Schools, was previously marked for
3 identification. Exhibit to be attached to the
4 transcript.)

5 Q Do you recognize this?

6 A Okay.

7 MR. SCOTT: Counsel, I see that this
8 document is not Bates stamped. Oh, there it
9 is. Okay. Thank you.

10 Q So this is Exhibit 34, Bethel Gallagher
11 0568, correct?

12 A Yes.

13 Q Have you ever seen this before?

14 A I'm sure I have.

15 Q Okay. What is it?

16 A This is actually -- well, BOOST. I may or
17 may not. Probably in a Board meeting.

18 This was just the number of students who
19 were receiving BOOST awards from the associated
20 schools that were in the list.

21 Q Okay. What list were those schools in?

1 A I guess there were 13 that were flagged as
2 needing further review.

3 Q Okay. So I see two, it seems like two
4 lists here.

5 What's the top one?

6 A Top one. Arnold Christian.

7 Q Well, I mean what is this heading I guess
8 on the top part of the document?

9 MR. SCOTT: Objection. Document speaks
10 for itself.

11 Q You can answer.

12 A This was at a specific date in time, at
13 March 7th where we were. So there could have been
14 schools that came into compliance, changed their --
15 or decided not to participate. Some schools just
16 decided not to participate.

17 Q Okay. And then for the record, I'll just
18 identify it.

19 So am I correct that at the top it says
20 BOOST schools with handbooks that do not comply with
21 the BOOST nondiscrimination requirements?

1 A As of March 7, 2018, yes.

2 Q Great. And then there's a line in the
3 middle of the page. And below that it says BOOST
4 schools in handbook category three of the legal
5 advice memo on nondiscrimination requirements as of
6 April 2018. Is that correct?

7 A Yes.

8 Q Okay. Do you think between these two
9 lists, that's all the schools that got flagged by
10 you and Felicia and Monica?

11 And if you need me to scroll, if you want
12 to inspect it a little further, I will.

13 A Category three as of that date, yes.

14 Q Okay. And these ones were other
15 categories, right? Up here on the top, those were
16 schools that were maybe category one or two?

17 A Yes.

18 Q Okay. So that would have been it seems
19 like 11 were in category three and nine were in the
20 other two categories.

21 So about 20 schools total got flagged; is

1 that correct?

2 MR. SCOTT: Objection.

3 A Things were -- they were coming in and
4 going out. I mean it was a moving target based on
5 any day you asked because they're still being
6 reviewed, still coming in. So subject to change.

7 Q Sure. But do you recall around that time
8 period was it about 20 schools that had been flagged
9 for review by you and Valerie?

10 MR. SCOTT: Objection.

11 Q Excuse me. Not Valerie. Felicia?

12 MR. SCOTT: Objection.

13 Q You can answer.

14 A I don't have the exact numbers, but that's
15 maybe in the ballpark, probably in the ballpark.

16 Q Okay. Go ahead and take a minute to look
17 through this list of schools on the top first. And
18 then when you need me to scroll down, let me know.

19 A Okay. Okay, you can scroll down. Okay.

20 Q Do any of these schools not have a
21 religious affiliation?

1 A I'm -- I don't, I don't go and look at
2 every school to make sure. I mean I -- yeah. They
3 appear to be all religious schools.

4 Q Okay. Do you remember ever flagging a
5 secular private school for review?

6 A Yes.

7 Q What school was that?

8 A I mean for general handbook issues?

9 Q Yeah. With respect to the
10 nondiscrimination requirement.

11 A Not as far as nondiscrimination.

12 Q Okay. Why was it that only schools with
13 religious affiliation got flagged for the
14 nondiscrimination clause?

15 MR. SCOTT: Objection.

16 Q You can answer.

17 A That's just the names that came to the
18 surface after the reviews. I mean we looked at them
19 in alphabetical order with no consideration of any
20 religious.

21 I don't understand. There's a lot of

1 school names that just by the name you can't tell if
2 it's which religion. So I don't even make
3 assumptions.

4 Q Okay. Let me take a look here.

5 Let's take a look back at Exhibit 31,
6 which we looked at earlier, which was the BOOST law.

7 I somehow forgot how to share my screen.
8 There we go. Okay.

9 Do you see that I'm back on the BOOST law
10 from 2018? So this is marked as Exhibit 2 from the
11 MPI, Bates stamp 0062. And I'm looking at
12 subsection D?

13 You remember looking at that earlier?

14 A Sure.

15 Q Okay. Okay. Are you familiar with the
16 legal requirement here for nondiscrimination?

17 A Yes.

18 Q Okay. What were the bases that schools
19 could not discriminate on in that fiscal year, which
20 would have been 2018?

21 MR. SCOTT: Objection. Asked and

1 answered. The document speaks for itself.

2 A Yeah. I mean the words right in the
3 document is what -- will not discriminate in student
4 admissions, race, color, national origin, or sexual
5 orientation.

6 Q Okay. I'm going to show you a handbook.
7 This is also known as Exhibit 2.

8 (Exhibit 2, 2017-2018 Bethel Christian
9 Academy Parent/Student Handbook, was previously
10 marked for identification. Exhibit to be
11 attached to the transcript.)

12 Q Okay. Do you see this document?

13 A I do.

14 Q Okay. Have you ever seen this before?

15 A I have.

16 Q Okay. What is this?

17 A This is Bethel Christian Academy's parent
18 student handbook.

19 Q Okay. And this is from the 2017-2018
20 school year, right?

21 A That's what it says, yes.

1 Q Okay. So this would have been the
2 handbook that you reviewed to comply with the
3 language of the law that we just saw, right?

4 A Correct.

5 Q Okay. So let me take you down to the
6 admissions page.

7 So am I correct that the law banned
8 discrimination in student admissions in a variety of
9 bases?

10 MR. SCOTT: Objection. Asked and
11 answered.

12 Q You can answer. Oops. Hang on. Sorry
13 about that. My Java tried to update.

14 You can answer.

15 A Okay. So I guess...

16 MR. SCOTT: Could you repeat the question,
17 counsel? I don't think the witness knows what
18 you asked.

19 Q Okay. So my question was that the law
20 prohibited discrimination in student admissions,
21 correct?

1 MR. SCOTT: Objection.

2 You can answer.

3 A Correct.

4 Q Okay. So can you show me -- this is
5 Bethel's admissions policy and their statement of
6 nondiscrimination from that year.

7 Can you identify the portion of Bethel's
8 admissions policy that says it will discriminate
9 against students on the basis of race or sexual
10 orientation or any of the prohibitive grounds?

11 MR. SCOTT: Objection.

12 Q You can answer.

13 A Okay. The words in the handbook that are
14 provided say it does not discriminate on the basis
15 of race, color, national and ethnic origin in
16 administration of its educational policies,
17 admission policies, scholarship and loan programs,
18 and athletic and other school administered programs.

19 Q Okay.

20 A I specifically had asked this question,
21 was it necessary that they specifically stated

1 sexual orientation or whatever the current change
2 was.

3 I was advised that yeah, that's -- this is
4 the basic national law wording, that it's not
5 necessarily -- we wouldn't expect to always see a
6 school's statement of nondiscrimination in their
7 handbook necessarily updated without those couple
8 words related to another one that isn't national.

9 So the omission of those words related to
10 the new law we were told was acceptable in the
11 handbook.

12 Q Okay. So it was acceptable to not
13 specifically mention sexual orientation?

14 A Correct.

15 Q Okay. Can you point me to where in this
16 policy Bethel says it will discriminate on the basis
17 of sexual orientation?

18 MR. SCOTT: Objection.

19 Q You can answer.

20 A Yeah. Well, under admissions policy is
21 the statement of nondiscrimination. And it says

1 they basically reserves the right to discriminate is
2 the way it was interpreted.

3 Q Where? Where does it say that?

4 A Parents must understand the continued
5 enrollment of their children is dependent on the
6 support of the school, its staff, and its policies.

7 Q Okay. And that language was interpreted
8 to mean that Bethel reserved the right to
9 discriminate on the basis of sexual orientation?

10 MR. SCOTT: Objection.

11 Q You can answer.

12 A The words say its policies.

13 Q Okay. Which of Bethel's policies were
14 problematic when you conducted the handbook review?

15 MR. SCOTT: Objection.

16 A I mean the fact that this is part of the
17 admissions policy and it's reserving the right to
18 based on, yeah, that policy that they could let them
19 go at any time.

20 Q Okay. So were all schools that reserved
21 the right to disenroll students at any time flagged

1 for review by the Board?

2 MR. SCOTT: Objection.

3 A No.

4 Q Okay. So why was Bethel flagged, then,
5 specifically?

6 A Because it was tied to a discriminatory
7 policy.

8 Q Where was the discriminatory policy?

9 MR. SCOTT: Objection.

10 A The words of this admissions policy.

11 Q Okay. I guess I'm trying to find where
12 discriminatory words are. That's the part I'm not
13 seeing.

14 MR. SCOTT: Objection. Asked and
15 answered.

16 Q You can answer.

17 A I believe it says for -- parents must
18 understand that continued enrollment is dependent on
19 their support of the school, its staff, and its
20 policies. That was all that we wanted clarification
21 on.

1 Q Okay. And so if a school requires parents
2 to support the school's policies, is that
3 discriminatory?

4 MR. SCOTT: Objection. Asked and
5 answered.

6 Q You can answer.

7 A No. That's a broad statement that
8 doesn't -- this is more specific than the words.

9 Q Okay. You don't recall any other language
10 on this page that raised a flag or that caused you
11 to refer this to Monica or anyone else?

12 A No. I mean this was just the positioning,
13 the words, the placement and the messaging.

14 Q Okay. What messaging was problematic?

15 A Message to parents that their student
16 could be let go at any time.

17 Q Okay. Jamie, do you remember reviewing
18 Bethel's application for admission in 2020 for the
19 Textbook program?

20 A I do. I remember actually sending it to
21 Rick Henry to review.

1 Q Okay. I'm sorry, my Internet cut out. So
2 you may have answered and I didn't hear anything.

3 MR. SCOTT: If you can repeat the
4 question, Paul, because you froze up and we
5 weren't able to hear what you were saying.

6 Q Okay. Why did you send that application
7 to Rick Henry to review?

8 A Just since his group was -- any that, you
9 know, still needed an opinion or if the handbook
10 came in the same as the previous year and it was a
11 problem. I mean I was reaching out for second
12 opinions.

13 I thought it was a good idea to get his
14 opinion. And since he was reviewing them based on
15 the same guidance I was and he concurred and we
16 passed on the information to I guess Donna was in
17 charge at the time.

18 Q This policy here from 2017 and 2018, what
19 category of school would this have fallen into?

20 A This would have been a category three. It
21 was right on the border of two, three, but it's

1 still a problem because it's under the category of
2 admissions policy.

3 Q And why was it category three?

4 MR. SCOTT: Objection. Asked and
5 answered.

6 A Based on --

7 Q Go ahead. Sorry.

8 A Based on the guidance we had received.

9 Q Okay. And is it your sworn testimony
10 under penalty of perjury that it was the language
11 that parents must agree to support the BCA core
12 values and school policies and that middle school
13 students are required to sign a code of conduct and
14 that parents must understand that continued
15 enrollment of their children is dependent on their
16 support of the school, staff, and their policies?
17 It's your testimony that that was the problematic
18 language in Bethel's handbook?

19 MR. SCOTT: Objection. Asked and answered
20 multiple times.

21 A Yeah. It's much more than just that one.

1 It's the combined pieces on this same page.

2 Q Okay. Take me through the other pieces
3 that are combined in with that.

4 MR. SCOTT: Objection.

5 Counsel, how many times are we going to go
6 over this?

7 MR. SCHMITT: I'm just trying to get a
8 straight answer.

9 MR. SCOTT: He's answered multiple times.

10 A The guidance says it can't be part of your
11 admission policy reserving right to discriminate. I
12 mean that's...

13 Q Okay. If this handbook did not include
14 the language that it supports a Biblical view of
15 marriage defined as a covenant between one man and
16 one woman and that God immutably bestows gender on
17 each person at birth as male or female to reflect
18 his image, if that language was not included on the
19 same page as the admissions policy, would this
20 handbook fall into category three?

21 MR. SCOTT: Objection.

1 A No, no. Because that statement is
2 statement of faith. And if it's part of your
3 statement of faith, that's fine.

4 Q Okay. So because this -- so said a
5 different way or a different question I guess would
6 be it's the inclusion of this language on this page
7 that puts it in category three, correct?

8 MR. SCOTT: Objection.

9 A It hasn't changed. It was reviewed and
10 the reason was given by the BOOST or Monica, why
11 they were rejected. And it's the same handbook.

12 Q Okay. Let me show you a different thing,
13 then.

14 I'm going to show you what's been marked
15 as Exhibit 21A.

16 (Exhibit 21A, 2019-2020 Bethel Christian
17 Academy Parent/Student Handbook, was previously
18 marked for identification. Exhibit to be
19 attached to the transcript.)

20 Q Have you ever seen this before,
21 Mr. Klarman?

1 A I believe it was submitted with their
2 latest application.

3 Q Okay. And am I correct that Exhibit 21A
4 is the Bethel Christian Academy 2019 to 2020 parent
5 student handbook?

6 A Yes. That's what it says.

7 Q Okay. I'm going to take you down to the
8 admissions page. Let me know if you can't read
9 this. There you go.

10 Does that look familiar?

11 A Yes.

12 Q So this has got a Bates stamp of 0100 on
13 it. And it was an Exhibit 9 to the plaintiffs'
14 Motion for Preliminary Injunction.

15 Do you see on this page a statement about
16 marriage?

17 A No, no.

18 Q So it's gone?

19 A Yeah. I mean if it was there in the other
20 one, it's not in this one. Yes.

21 Q Okay. So it's been removed from this

1 particular page, which would have been page seven.

2 Would this admissions policy still be in
3 category three?

4 MR. SCOTT: Objection.

5 A It's still not clear. That didn't change
6 anything.

7 Q Why not?

8 A It's still exactly the same words as far
9 as parents must understand that continued enrollment
10 of their children is dependent on support of school,
11 staff, and policies under the admissions category.

12 Q Okay.

13 A Is problematic.

14 Q Okay. Let's take a look at something
15 else.

16 A Nothing to do...

17 Q Okay. I don't think this one has been
18 reviewed yet. So I have to introduce it. So I have
19 to tag it as an exhibit. This is going to be
20 Exhibit 63. Give me just one second while it loads.

21 (Exhibit 63, E-mail Chain, was marked for

1 identification. Exhibit to be attached to the
2 transcript.)

3 Q Okay, Jamie. I'm going to show you an
4 e-mail chain that I've marked as Exhibit 63.

5 And this has got a Bates stamp on it
6 Bethel Defendants 04546; is that correct?

7 A Correct.

8 Q Okay. So do you see that this is an
9 e-mail chain between you and Donna Gunning from
10 February of 2020?

11 A Yes.

12 Q Okay. Do you remember this exchange at
13 all, just before we go through it?

14 A Yeah. Let's see. I'm thinking this is
15 where we sent the list for him to review.

16 Q I think we'll go down, go through it. So
17 if that's okay, let me just -- we'll go down toward
18 the bottom. Oops. Okay. This might all be
19 signature blocks. Okay.

20 So let's go here. This would have been
21 February 5, 2020.

1 A Okay.

2 Q Do you see it's -- are you
3 james.klarman@maryland.gov?

4 A That's correct.

5 Q This is between presumably you and Donna,
6 correct?

7 A Yes.

8 Q Okay. Do you see it says it's giving
9 looks like an update on different things in the
10 BOOST program and maybe Textbooks?

11 A Right. This was Textbooks.

12 Q Okay. It says these three could be added
13 to the BOOST listing if approved.

14 And then what are those three schools?

15 A Okay. Oak Grove Classical Christian
16 School, delayed due to definition request.
17 Lighthouse Christian Academy, delayed due to
18 definition request. Bethel Christian Academy,
19 handbook and application under review.

20 Q Okay. And then we go up here. Donna
21 thanks you later that day for the helpful

1 information. And then she follows up and asks do
2 you have the final data for the three potential
3 BOOST schools and wants you to send it to her.

4 And then I think that's what this is down
5 on next day, February 6th, you respond.

6 Is that correct?

7 A Correct.

8 Q Okay. So it's talking about Oak Grove and
9 they're going through the process. And it talks
10 about how their church needed to approve something
11 based on a response that you guys gave them for
12 information on a definition. Correct?

13 A That's correct.

14 Q So that's probably -- well, I mean I'm
15 assuming that that's that request we looked at
16 earlier today.

17 And then it says Lighthouse Christian
18 Academy, application received and you wanted a clean
19 assurance document from them. And then you sent a
20 picture of the assurance document. It has writing
21 on it.

1 What does the writing say?

2 A Pending definitions for gender identity or
3 expression.

4 Q Okay. Do you remember what that was
5 about?

6 A We were specifically advised that --

7 MR. SCOTT: Mr. Klarman, I'm just going to
8 caution you not to disclose any legal advice
9 that you may have received from the Office of
10 the Attorney General concerning this issue.

11 A Okay. I guess I maybe can't say then. I
12 guess it's...

13 Q What did Lighthouse want?

14 A I think they were asking for our
15 definition.

16 Q Of?

17 A Gender identity or expression.

18 Q Okay. Did you have other schools that
19 asked you what the gender identity or expression
20 requirements meant?

21 A I believe there was that one other that

1 was in this same correspondence.

2 Q Okay. And then you've got Bethel
3 Christian Academy application under review on the
4 same page, right?

5 And that's Bethel Defendants 04546.0006.

6 A Correct.

7 Q Okay. All right. So you send that to
8 Donna.

9 Do you see that there's a screen shot on
10 the next page of Bethel's request?

11 A It's Bethel's Textbook application.

12 Q Okay. That's their application. Great.
13 Okay. So --

14 A -- program not BOOST.

15 Q I'm sorry. Yeah.

16 So you send that to Donna. And then she
17 thanks you on February 6th. And then 12 days later
18 on February 18th, Donna writes you back on this
19 issue.

20 What does Donna say?

21 A I added Bethel. Can you give me the

1 status of the other two? Also, has Bethel
2 application been approved?

3 Q So then you respond to her the next day on
4 February 19th.

5 And just let's go through your response
6 with respect to Bethel. So you don't need to go
7 ahead and read bullet number three.

8 With respect to Bethel in one and two,
9 what did you tell Donna?

10 A There was maybe a confusion in another
11 school's name over something else. I didn't quite
12 remember that. My note from yesterday that Bethel
13 was in the House after seeing the sign-in sheet, it
14 was -- oh, that was -- we thought -- oh, I thought
15 they were at the Board meeting. And it was a
16 different Bethel apparently or something. That's
17 all.

18 Q Okay. And then what does bullet number
19 two say? Go ahead and read that for me, please.

20 A Bethel Christian Academy has not been
21 approved. There are three reasons I see why they

1 should be rejected.

2 From review of the handbook, the same
3 language that was of concern to the BOOST Board is
4 still in the handbook, language in the House Bill
5 100 is to -- language in the House Bill 100, it is
6 intent of the General Assembly that a school that
7 violates the nondiscrimination requirements is
8 ineligible to participate in the aid to nonpublic
9 schools program, the BOOST program, the James Ed
10 DeGrange Nonpublic Aging Schools program, and the
11 Nonpublic School Security Improvement program in the
12 year of the violation and the following two years.

13 Q Okay. And then what's it say after that?

14 A School registered and submitted
15 application on 1/17/20 after the deadline. We were
16 only working to resolve issues with schools that had
17 registered prior to 12/31/19.

18 Q Okay. Do you know why Bethel had applied
19 after the deadline?

20 A They were possibly waiting for a response
21 to that definition.

1 Q Okay. Did anybody at -- go ahead. I'm
2 sorry.

3 A That's okay.

4 Q Okay. Let's go to Donna's e-mail here.
5 Donna thanks you on the 19th, which would be that
6 same day.

7 And then what does she say about Bethel?

8 A Okay. Has anyone from Rick's staff
9 reviewed this handbook? If not, please ask them to
10 do so. What is the practice for questionable
11 handbooks? If we don't have one written down, we
12 need to develop one. Current law requires the
13 Textbook program to be the gateway. As a result,
14 the BOOST Board is not the decision maker. Once I
15 hear back from you on this issue, I will let the
16 AG's Office know.

17 This has to do with Textbook program.

18 Q Great. Yeah. This was Bethel's Textbook
19 application for 2020.

20 So this obviously happened then, am I
21 correct, after the compliance people have been

1 brought into the process?

2 A No. This is when, this is when she asked
3 if we were going to let them review it. And so
4 yeah. This was the request to send it to them for
5 review for a second opinion.

6 Q And Donna Gunning says in her e-mail that
7 the BOOST Board is not the decision maker there.

8 Who would the decision maker be for making
9 a judgment call on the handbook for the Textbook
10 program?

11 A For the Textbook program, it is MSDE
12 management, which would be Donna and me I guess as
13 the coordinator. We would discuss it. But she was
14 my boss, so she...

15 Q So you and Donna. And then you'll get a
16 second opinion from the compliance people?

17 A Correct.

18 Q Who makes the ultimate decision?

19 A It would be -- if I wasn't comfortable or
20 sure, it would be Donna or Donna would ask for
21 guidance from Attorney General's Office if she

1 wasn't comfortable with her decision.

2 Q Okay. At this point, did you have a
3 practice written down for questionable handbooks?

4 A No, we did not. It was just if there was
5 one that threw a red flag, it was circulated.

6 I responded to this I think with a --
7 yeah. I mean our policy was it was reviewed. If it
8 was flagged, it was sent to everybody for review,
9 for the compliance group and her. That's basically
10 the policy. So I did write it based on her request
11 here. It wasn't a multipage process or anything.
12 It was just this is what we do.

13 Q Okay. That seems to be the same e-mail
14 maybe quoted back.

15 And then, oh, I see what happened. Here
16 you replied in blue. You went through her old
17 e-mail and put replies in there. Okay.

18 So this is you also on that same day. And
19 I'm on Bethel Defendants 45460002 into three. You
20 were replying to her question about Bethel.

21 And what did you tell Donna?

1 A It had only been reviewed by me so far. I
2 will send it to Rick's group for review.

3 Q Okay.

4 A And that was the only questionable one we
5 had received that program year.

6 Q Okay.

7 A Other schools where there was an issue
8 have not returned. The guidance on Bethel Christian
9 Academy's handbook came from OAG and it was
10 presented to the BOOST Board at a meeting in a
11 closed session.

12 Q Okay. So the analysis that was used on
13 Bethel was presented during a closed session at a
14 BOOST Board meeting?

15 A Yes.

16 Q Okay. So it wasn't just the guidance from
17 January of 2018 that was applied to Bethel, Bethel
18 had its own specific guidance, correct?

19 MR. SCOTT: Objection.

20 Q You can answer.

21 A Well, the initial guidance just spelled it

1 out. If there was more clarity, review was -- yeah.
2 They submitted it and we reviewed their responses or
3 the BOOST Board reviewed.

4 Q Did you ever receive a copy of the
5 guidance that was presented to the BOOST Board?

6 A I did not. And I was not present. So I
7 don't know if there even was guidance versus just
8 a -- or written guidance or anything.

9 Q Okay. So the only policy that you
10 continue to apply is the policy from the
11 January 2018 memo?

12 MR. SCOTT: Objection. Asked and
13 answered.

14 Q You can answer.

15 A I mean that's the basic thing that still
16 applies.

17 Q Okay. And then what was the last sentence
18 you had in that paragraph?

19 A Written policy. Any handbooks found to
20 contain language that is determined to be
21 inconsistent with the Maryland Nonpublic Textbook

1 program's nondiscrimination assurance statement will
2 be sent to the MSDE compliance group for a second
3 review. The review will be made in accordance with
4 the guidance provided by the State of Maryland's
5 OAG.

6 That was our written policy, yes. That's
7 in response to what we looked at earlier.

8 Q Okay. But then what was the -- thank you.
9 What was the last sentence in the
10 paragraph above it that we were just talking about?

11 A Let me make sure I got the context here.

12 MR. SCOTT: Paul, it might be helpful if
13 you highlighted it for him. I think he's
14 having trouble finding it.

15 A Starting, okay, right there.

16 Yeah. I wasn't sure if you would even
17 want to continue with the review of the application,
18 given the late application and the two-year
19 nonparticipation clause.

20 If a school submits an application past
21 the deadline and we're not working with them up to

1 that point, they could be disqualified based on late
2 application.

3 Q Sure. Okay. We're going to go to this in
4 just a second.

5 But you don't know why Bethel might have
6 submitted a late application at that point?

7 A It's possible it was because of that
8 definition. I don't know the timing and the dates
9 from in front of me.

10 Q Okay. So no one had told you that the
11 Maryland Attorney General's Office represented that
12 Bethel should not get an injunction in this case
13 because you had not personally reviewed their
14 updated handbook?

15 A No, not at all.

16 Q Okay. Let's look at this later in that
17 day, not too much later, maybe 20 minutes or so,
18 half hour. Donna responds.

19 And what did she direct you to do with how
20 to proceed with Bethel's new application to the
21 Textbook program?

1 A It said for Bethel, they were given the
2 opportunity to correct their handbook by the BOOST
3 Board. However, the BOOST program did not receive
4 revised handbook language. For the Textbook
5 process, I want to be sure we are following current
6 practice. Although this school registered late,
7 there were other schools that did so as well and I
8 would rather err on the side of inclusion in this
9 instance. Once Rick's group completes their review,
10 I will forward all the information to the AG's
11 Office for their review. In the interim, let's
12 leave the Bethel application pending. Moving
13 forward, we should have written practice language
14 regarding exceptions to deadlines.

15 Q Okay. So she says go ahead, if I can sum
16 up. She just says go ahead and review the handbook,
17 forward it to the compliance group, let them have a
18 look at it, and then they'll go from there.

19 Is that right?

20 MR. SCOTT: Objection. The document
21 speaks for itself.

1 A Yeah.

2 Q Okay. Okay. Great. Thank you. Jamie,
3 do you remember what the ultimate determination was
4 on Bethel's application for Textbooks in that cycle?

5 A Their ultimate decision that was made? I
6 believe it was determined that they were still in
7 noncompliance.

8 Q Okay. So that stuff we just looked at was
9 in February of 2020.

10 Let's look at another document.

11 (Exhibit 52, Letter to Claire Dant from
12 Donna Gunning Dated 4/24/20, was previously
13 marked for identification. Exhibit to be
14 attached to the transcript.)

15 Q This one is Exhibit 52, previously marked
16 at. And it's from MSDE Google drive 00114.

17 You see that?

18 A I do.

19 Q Okay. Do you see that it's a letter
20 signed by Donna?

21 A Yes.

1 Q Okay. Do you see that she copied you on
2 this letter?

3 A She did.

4 Q Okay. And do you recognize this letter
5 from April 24, 2020?

6 A I do recall this.

7 Q Okay. What is this letter communicating?
8 What is this letter?

9 A Okay.

10 MR. SCOTT: Objection. The letter speaks
11 for itself.

12 You can answer.

13 A The first part was -- okay. So she -- so
14 she did it based on the...

15 MR. SCOTT: Mr. Klarman, just read the
16 entire document before you start to testify,
17 please.

18 A Okay. Okay. The first paragraph is
19 basically just saying that we did receive your
20 application late but it was still processed.

21 Q Okay. And then I think the second

1 paragraph basically states the nondiscrimination
2 requirement that was applicable to the fiscal year
3 2020, which includes gender identity or expression
4 in addition to the grounds that were in previous
5 years, correct?

6 A That's correct.

7 MR. SCOTT: Objection.

8 A Per the budget bill.

9 Q Okay. Go ahead and familiarize yourself
10 with the third paragraph.

11 A Right. The same things we discussed
12 earlier --

13 MR. SCOTT: Jamie, there's no question
14 pending. So don't testify until he asks you a
15 question.

16 THE WITNESS: Okay.

17 Q Okay. So what does Donna communicate to
18 Claire Dant in this letter in this third paragraph,
19 Mr. Klarman?

20 MR. SCOTT: Objection. The letter speaks
21 for itself.

1 Q Go ahead.

2 A Yeah. Exactly. I mean it just says that
3 stating the same thing that is the cause for concern
4 in the handbook. We noted that Bethel considers
5 grounds for disciplinary action up to and including
6 suspension or expulsion to include violation of the
7 expectation of BCA students' identity with, dress in
8 accordance with, and use of facilities associated
9 with biological gender.

10 Q Okay. And then after it quotes that
11 language, the expectation that BCA students identify
12 with, dress in accordance with, and use the
13 facilities associated with their biological gender,
14 it gives a citation; doesn't it?

15 A House Bill 100?

16 Q No. Do you see where it says Appendix B
17 page 35?

18 A Appendix B, page 35, I do.

19 Q So this is quoting Bethel's handbook,
20 correct?

21 A Yes.

1 Q Okay. So do you remember when you were
2 looking at the handbook earlier, the admissions page
3 was page seven?

4 A If that's what it was. I don't have it in
5 front of me.

6 Q Okay. So she's relying on, am I correct,
7 in saying she's relying on page 35 of Bethel's
8 handbook and language in there to make her
9 determination?

10 MR. SCOTT: Objection. The document
11 speaks for itself.

12 Q Go ahead.

13 A The reference is to page 35 of Appendix B.

14 Q Okay.

15 A I'm not sure what Appendix B is. So I
16 can't say if that's their handbook.

17 Q Okay. Do you believe Donna Gunning relied
18 on other portions of Bethel's handbook to make this
19 determination outside of just the page titled
20 admissions?

21 MR. SCOTT: Objection. Calls for

1 speculation.

2 A No. I honestly do not believe.

3 I know that everybody went out of their
4 way to keep this as evenly across all schools.
5 That's always...

6 MR. SCHMITT: Objection. Nonresponsive.

7 (Pause.)

8 Q Okay. Do you see that it says the
9 department concluded that these statements violate
10 the nondiscrimination clause contained in House Bill
11 100?

12 A I do.

13 Q Okay. Are you the department?

14 MR. SCOTT: Objection.

15 A No, I'm not the department. I'm just --

16 Q Would you be -- I'm sorry. Would you be
17 included among the individuals in the department who
18 would make that conclusion?

19 MR. SCOTT: Objection.

20 A Like we said previously, we would discuss
21 topics and raise it to our superiors.

1 Q Okay. And then House Bill 100 is a
2 reference to the budget bill of that year, correct?

3 A I believe so, yes.

4 Q Okay. And the problematic language
5 includes suspension or expulsion, but then also
6 violations of -- you see this language here? The
7 expectations that BCA students identify with, dress
8 in accordance with, and use the facilities
9 associated with biological gender?

10 A I do.

11 Q Okay. So that's some of the problematic
12 language.

13 And do you see that House Bill 100 of that
14 year included prohibitions on discrimination for
15 gender identity or expression?

16 MR. SCOTT: Objection. The document
17 speaks for itself.

18 Q You can answer.

19 A I mean that's what I'm reading. I mean
20 it's what the words say.

21 Q Okay. So was Bethel excluded in 2020

1 because its handbook was found to violate the
2 nondiscrimination provision with respect to gender
3 identity and expression?

4 MR. SCOTT: Objection. The document
5 speaks for itself.

6 Q I'm asking from your personal knowledge,
7 Mr. Klarman.

8 A Yeah. Because --

9 Q Okay.

10 A -- part of the admissions policy. They're
11 reserving the right to discriminate is the way it's
12 interpreted.

13 Q Okay. And so -- go ahead. Sorry.

14 A Just based on the words in the document.

15 Q Okay. And just to be clear because I
16 don't think we got this right.

17 Was gender identity and expression the
18 reason that Bethel was excluded, that requirement?

19 MR. SCOTT: Objection.

20 A As it related to their admissions policy.

21 Q Okay. Thank you. Let's look at another

1 one. This was previously marked as Exhibit 60.

2 (Exhibit 60, House Bill 588 Senate Bill
3 491, Budget Bill 2022, was previously marked
4 for identification. Exhibit to be attached to
5 the transcript.)

6 Q Okay. Do you see this?

7 A I do.

8 Q Okay. This is marked as Exhibit 60. It's
9 House Bill 588 Senate Bill 491.

10 And it's a bill entitled the budget bill
11 for fiscal year 2022; is that correct?

12 A It is.

13 Q Okay. Have you ever seen this before?

14 A Online prior to the date it was
15 officially -- no one sent it to me. Just watching
16 the progression of legislature. Sometimes we just
17 keep an eye on it to see what's changing or what
18 updates there are.

19 Q Okay. I'm going to scroll down a little
20 bit here. Actually you know what I'm going to do is
21 just find it, maybe. No. It's not going to let me

1 do that.

2 Bear with me. Hang on one second. There
3 we go. Okay. Hang on one second. Okay. Sorry
4 about the delay. In the current format, it wouldn't
5 let me search. And so this down on page 104. We
6 would have been here a while if I hadn't pulled it
7 up a different way.

8 So this is the same document. We're on
9 page 104 of the budget bill. And I'm looking at
10 section R00A03.05, which is the BOOST program.
11 Okay.

12 And we've mentioned before that the
13 nondiscrimination requirements are consistent across
14 the programs, correct?

15 A Correct.

16 Q Okay. I'm going to point you down to
17 subsection D. And we've looked at the different
18 language from a couple of different years now --

19 MR. SCOTT: I'm going to just point out
20 for the record that this is not the final and
21 active bill for the budget year, the current

1 budget year.

2 Q Okay. So for subsection D, the bill lists
3 a number of prohibitions on discrimination.

4 Can you give me the grounds that it
5 prohibits discrimination on the basis of, sir?

6 A Race, color, national origin, or sexual
7 orientation.

8 Q Okay. Do you see any mention of gender
9 identity or expression in this bill?

10 MR. SCOTT: Objection. The document
11 speaks for itself.

12 Q You can answer.

13 A I do not see it in its current form. Yes.

14 Q Okay. Okay. So this is for the coming
15 school year, right? So next fall?

16 MR. SCOTT: Objection.

17 A It's not the final language, so I can't
18 say.

19 Q Let's say it were adopted.

20 Would it apply for next school year?

21 MR. SCOTT: Objection.

1 Q You can answer.

2 A Is this relating to Textbook or BOOST?

3 Q Both.

4 MR. SCOTT: Objection.

5 A This is the BOOST language. So this does
6 apply to BOOST.

7 There's a time delay that they have to --
8 this language may apply to the following year
9 actually. The current year is -- the Textbook
10 program kicks off. It's almost like six months
11 behind and then the BOOST follows. So be careful
12 whether you're talking about fiscal year or school
13 years.

14 Q Sure, sure. Let me see where I put that.
15 I'm going to go back to 21A, to the admissions
16 policy of Bethel. This would have been 18-19.

17 So if the budget bill -- so as the person
18 who coordinates for the Textbook program, if the
19 budget bill that we just looked at was adopted and
20 gender identity is no longer a requirement for
21 nondiscrimination, would you flag this policy for

1 further review?

2 MR. SCOTT: Objection to form.

3 A Yeah. The parts that were of concern are
4 still there. That wasn't an issue.

5 Q Okay. Let me pull something else up here.
6 Hang on one second. Sorry.

7 So this should be Exhibit 64. I'm going
8 to share. Okay.

9 (Exhibit 64, Nonpublic Schools Program
10 Coordinator Position Posting, was marked for
11 identification. Exhibit to be attached to the
12 transcript.)

13 Q Do you see this that I've marked as
14 Exhibit 64?

15 A Yes.

16 Q Okay. Do you recognize what it is?

17 A It looks like my recruitment documents.

18 Q And it's for a nonpublic schools program
19 coordinator position, correct?

20 A That's correct.

21 Q Okay. Is that your current position?

1 A It is.

2 Q Okay. Does what I'm looking at marked as
3 page two of four in Exhibit 64, does it include a
4 description of your position duties?

5 A It does.

6 MR. SCHMITT: Thank you. Okay. I think
7 we're at a point where we should probably take
8 a break. Or said differently, I could use a
9 break.

10 Is that okay for you, Mr. Klarman?

11 THE WITNESS: Sure.

12 MR. SCHMITT: Okay. How long would you
13 like?

14 THE WITNESS: I'm flexible. You call it.
15 How long do you need?

16 THE VIDEOGRAPHER: I could get us off the
17 video record very quickly.

18 This is the end of media unit number two.
19 Off the video record at 1:09 p.m.

20 (Recess taken.)

21 THE VIDEOGRAPHER: This is the beginning

1 of media unit number three.

2 We are back on the video record at
3 1:31 p.m.

4 Q Okay. Jamie, thank you for your patience
5 and for letting me take a break. That was necessary
6 and helpful.

7 I'm going to go through just a few more
8 items I think and then I think we're getting close
9 to the end of stuff that I've got for you. I don't
10 know if Mr. Scott is going to have things or not to
11 follow up on.

12 Excuse me one second.

13 Okay. So we just left off before the
14 break talking about changes to the law and the
15 discrimination policies and everything that was --
16 and Bethel's handbook as it sits currently.

17 I want to show you a few other documents
18 and just see if you recognize them. And the first
19 one I think that I've got ready to go is marked as
20 Exhibit 65.

21 (Exhibit 65, E-mail Chain, was marked for

1 identification. Exhibit to be attached to the
2 transcript.)

3 Q So I've got an e-mail chain here that
4 appears to be between you and someone named Susie
5 Long. And the subject is about From the Heart
6 Christian School handbook. It's from March of 2018,
7 March 12th.

8 It's marked Exhibit 65. And it's got a
9 Bates stamped number on it of Bethel Defendants
10 04619.

11 Do you see that?

12 A I do.

13 Q Awesome. On Monday, March 12th, it
14 appears that Dr. Long reached out to you. This is
15 in 2018, so while all this was going on, saying that
16 they wanted to apply for one of the programs but
17 they couldn't sign the assurance language as it was
18 written.

19 And then you sent a snippet or screen shot
20 maybe of the nondiscrimination requirement back to
21 her on the same day, Monday, March 12, 2018.

1 Do you see that?

2 A I do.

3 Q Okay. And she asks you in response -- you
4 reassure her that a number of Christian schools
5 participate in these programs. So she responds with
6 a question.

7 Do you see that?

8 A I do.

9 Q Okay. What was she asking here?

10 A What is meant by nothing herein shall
11 require any school or institution to adopt any rule,
12 regulation, or policy that conflicts with its
13 religious or moral teachings? Does this mean that
14 the regulation or policy does conflict with our
15 religious or moral teachings, we do not have to
16 honor it?

17 Q Okay. Do you recall responding to her?

18 A I'm sure I probably did. I can't remember
19 2018, March 2018. 20,000 e-mails between now and
20 then.

21 Q Do you recall getting this request?

1 A I do specifically, I do remember this
2 wording that seemed a little -- does this mean that
3 if the regulation and policy does conflict, we do
4 not have to honor it.

5 I mean if their policy is in conflict with
6 the assurance, it's not in adherence to the law, so
7 I would never tell them that they can't honor it.

8 Q Right. I understand that. I'm just
9 asking do you remember receiving this request?

10 A I do.

11 Q Okay. Do you remember --

12 A -- several times Dr. Long.

13 Q Okay. Do you remember receiving similar
14 requests from other schools or questions for
15 clarification?

16 A Sure. There have been a few, yes.

17 Q Okay. How would you respond to those
18 requests? Like would you always respond directly or
19 would you refer the question to someone else to
20 answer?

21 A The only thing I would say personally for

1 me is what I had stated earlier, that if your policy
2 as it's written in your handbook, it does not
3 accurately reflect your current policies, then maybe
4 somebody needs to look at that handbook passage.

5 Q Right, right, right. Okay. So I guess my
6 specific question is, though, would you respond to
7 them individually or did you refer these inquiries
8 to other people in MSDE or elsewhere?

9 A No. I would always run it up the flagpole
10 if it was questionable or the situation was
11 questionable. I would ask for another opinion of
12 someone from the group or see if Monica agreed or
13 Donna, whoever was in the seat at the time, wanted
14 to run it up for clarification or ask them for
15 clarification.

16 Q Okay. And then did you ever receive at
17 any time a written explanation of what the religious
18 exception language meant?

19 A What the religious -- from?

20 Q From the BOOST law. So this language that
21 she's quoting right here.

1 MR. SCOTT: I'm sorry, Paul. What's the
2 question?

3 Q So Jamie, she's quoting here the BOOST
4 law, right, which is down here?

5 A Right. The budget language.

6 Q Right, right. So did you ever at any time
7 receive any kind of written guidance or direction on
8 what this particular provision meant?

9 A The very first year there -- basically the
10 same statement. We were told that the guidance we
11 were given was a specific piece of wording that the
12 schools could add to their assurance document, which
13 was basically the exact same wording. It was
14 already in there, that yeah, that we were not going
15 to tell you what you can teach or what your beliefs
16 are.

17 Q Okay.

18 A That was the guidance from the --

19 MR. SCOTT: I'm going to caution the
20 witness not -- if he's talking about guidance
21 he received from the Office of the Attorney

1 General, not to disclose that.

2 Q Okay. Let's look at what I've introduced
3 as Exhibit 66.

4 MR. SCOTT: And just for the record, I
5 want to move to strike his prior answer.

6 (Exhibit 66, E-mail Chain, was marked for
7 identification. Exhibit to be attached to the
8 transcript.)

9 Q Okay. Let's see. Exhibit 66. It's got a
10 Bates stamp Bethel Defendants 1035 on it.

11 And it's Beckie Carbaugh e-mailing with
12 you; is that correct?

13 A It is.

14 I'm not sure which school this is
15 referring to without -- the school name is not clear
16 to me in this.

17 Q Okay. That's fine. This is an e-mail
18 exchange from February of 2018, correct?

19 A Yes.

20 Q Okay. Do you see down here in your e-mail
21 to her on February 20, 2018, at 2:05 p.m.? Do you

1 see that you said attached is a memo from our legal
2 counsel, please see page two?

3 A I do.

4 Q Were you sending Beckie Carbaugh a copy of
5 the January 2018 memo that we looked at earlier?

6 A I can't tell from what you're presenting
7 in front of me. I don't recall at the time if I did
8 or not. It's not coming to my mind.

9 Q Okay. But you do remember sending that
10 memo to schools?

11 A To schools, no. This was an individual,
12 to a specific person based on a specific question.

13 Q Okay. So if we go down to the bottom, it
14 says hi, Jamie, thank you for your letter. Would
15 you please let me know what wording in our handbook
16 specifically discriminates "student admissions on
17 the basis of race, color, or national origin or
18 sexual orientation." Signed Beckie Carbaugh.
19 That's on the 20th.

20 Then you send back to her the North
21 American Division of Education LGBT statement from

1 Frederick Adventist Academy. Is that correct?

2 A From their handbook, yes.

3 Q Okay. And also does this e-mail say that
4 you have attached a memo from our legal counsel?

5 A Correct.

6 Q Okay. Thank you. I'm going to have you
7 look at Exhibit 67.

8 (Exhibit 67, E-mail to Bette Holub from
9 Jamie Klarman Dated 12/18/18, was marked for
10 identification. Exhibit to be attached to the
11 transcript.)

12 Q Take a minute to go ahead and familiarize
13 yourself with this.

14 You see that I marked it 67?

15 It's Bethel Defendants 04598.

16 A Okay.

17 Q Go ahead and just take a second.

18 A Right. This goes to all schools.

19 Q Okay. Do you see that this is an e-mail
20 exchange between you and Bette Holub?

21 A Correct.

1 Q Do you know who Bette Holub is?

2 A St. Francis Academy I believe.

3 Q Okay. I see that below, you correctly
4 identified this appears to be a form e-mail. And
5 this is on 04598.0001.

6 It seems that that is the form e-mail for
7 the Textbooks program, the application reminder
8 right there?

9 A Well, that was the -- telling us that
10 the -- yeah. When we kick off, we advise the
11 schools the application is available, here is the
12 link to the school, a little bit of information
13 about the different programs.

14 Q So is this top portion of the e-mail, is
15 it correct that you did not see an application from
16 St. Francis Academy and so you sent a reminder?

17 A Yes. I usually work -- any of those
18 schools that participated in the previous year or
19 participated in BOOST the previous year, it's -- I
20 try to send them reminders that we haven't seen your
21 application yet, to please apply. It's much easier

1 to get them in before the deadline than deal with it
2 after, yes.

3 Q Great. Do you ever recall sending Bethel
4 a reminder e-mail to apply?

5 A The issue with -- it would depend on their
6 church. If they're a church-exempt school,
7 church-exempt schools, the nonpublic approval group
8 does not maintain e-mail addresses for. So if a
9 school did not participate in the previous year, all
10 of the notices go out to everyone who participated
11 the previous year.

12 MR. SCHMITT: Objection. Nonresponsive.
13 (Pause.)

14 Q So you don't recall ever sending Bethel
15 specifically a reminder e-mail?

16 A This goes out through the gov delivery
17 system. This is all the e-mails, about 580 or 90 it
18 goes to, just everybody who is in the database from
19 the nonpublic approval group and the schools
20 principals and contacts from the previous year.

21 Q This portion of the e-mail that I'm

1 highlighting, is that part that goes out through the
2 system or is that an individual follow-up?

3 A No. I keep that same message. And if a
4 school asks me a question that's answered in this
5 message that was previously sent out, I cut and
6 paste it back to them.

7 Q And do you specifically remember ever
8 doing that for Bethel?

9 A If someone had asked me for the
10 application links, yes, I would have.

11 We did receive their application. So they
12 had the data.

13 MR. SCHMITT: Okay. I'm going to object
14 as nonresponsive.

15 (Pause.)

16 Q Let's look at Exhibit 68.

17 (Exhibit 68, E-mail Chain, was marked for
18 identification. Exhibit to be attached to the
19 transcript.)

20 Q Let's see. This is another e-mail
21 exchange between you and Monica. It looks like from

1 February of 2018.

2 Do you see that marked as Exhibit 68 and
3 then it's Bethel Defendants 04625?

4 A That's correct.

5 Q Okay. And it looks like below that -- so
6 am I correct that you sent Monica an e-mail asking
7 her to let you know when she could talk about a
8 request from a school?

9 A Correct.

10 Q Okay. And this school, in an e-mail to
11 you and Monica earlier that day at 10:48 a.m. on
12 February 16th, seems to be objecting to the fact
13 that they were placed in category two due to their
14 handbook. Is that correct?

15 MR. SCOTT: Objection. The document
16 speaks for itself.

17 A Yeah. She's referring to a lot of other
18 stuff that may have been out of context. I don't --
19 that's their understanding possibly at the time. It
20 was not in -- doesn't align with I think what was
21 going on with the program.

1 Q Okay. Do you remember at the beginning of
2 the BOOST program, were you involved with recruiting
3 or inviting schools to participate?

4 A No, I don't think so.

5 Q Who would have done that?

6 A The BOOST team or Monica maybe. I'm not
7 sure. I was in -- or maybe Felicia. I'm not sure.
8 I was in the Textbook program basically except for
9 when the applications, the BOOST -- Textbook schools
10 became the BOOST schools. That was my involvement.

11 Q Okay. Have you ever had any involvement
12 with the Maryland PTA?

13 A No. Just see them speak at a meeting once
14 or twice maybe.

15 MR. SCHMITT: Let's see here. Okay.

16 I think that's all I've got.

17 MR. SCOTT: All right. Mr. Klarman, I
18 have a few follow-up questions for you.

19 As you know, I'm Robert Scott. I
20 represent the defendants in this case and I'm
21 representing you for purposes of today's

1 deposition.

2 THE VIDEOGRAPHER: Excuse me.

3 MR. SCOTT: Yes?

4 THE VIDEOGRAPHER: I apologize for
5 interrupting. We have Marva Jo Camp, I really
6 can't see the name, in the waiting room. I
7 don't know if I should admit her or not.

8 MR. SCHMITT: She's a party. She can
9 come.

10 MR. SCOTT: Okay. Are we ready?

11 THE VIDEOGRAPHER: Yes.

12 EXAMINATION BY MR. SCOTT:

13 Q So Klarman, Mr. Schmitt asked you some
14 questions about the memo from the Office of the
15 Attorney General.

16 (Pause.)

17 MR. SCOTT: Paul, could you show him
18 Exhibit 33, please?

19 MR. SCHMITT: Sure.

20 MR. SCOTT: Thanks.

21 (Pause.)

1 Q Do you remember testifying about this memo
2 earlier today?

3 A Yes.

4 MR. SCOTT: And Paul, can you go to the
5 first page of the examples, please?

6 MR. SCHMITT: Page two?

7 MR. SCOTT: The next page, the examples,
8 the appendix that's attached. Yes. Thank you.

9 (Pause.)

10 Q So you were asked some questions about the
11 examples of handbook language that were attached to
12 the OAG memo, Exhibit 33.

13 You remember that?

14 A I do.

15 Q Okay. Now, you didn't prepare this memo,
16 correct?

17 MR. SCHMITT: Objection. Form.

18 Q Did you prepare this memo from the
19 Attorney General's Office?

20 A I did not.

21 Q Okay. Did you decide what documents would

1 be attached as part of Appendix A?

2 A I did not.

3 Q Do you know why, whoever prepared this
4 memo and its appendix, chose the particular schools
5 that they chose as examples?

6 MR. SCHMITT: Objection. Calls for
7 speculation.

8 Q Do you know?

9 A I mean we provided the examples that we
10 thought were problematic. And Monica I believe
11 grouped them into categories and presented them.

12 Q Do you know that Monica provided the
13 examples to the person who prepared this memo to be
14 used in Appendix A or that --

15 A I do not know that.

16 Q So that was speculation, correct?

17 A Yes.

18 Q And you didn't provide the examples that
19 were provided as part of Appendix A to the Office of
20 the Attorney General, correct?

21 A Not as in this format. Maybe I might have

1 presented one or two.

2 Q No. I'm asking you about this format that
3 you're looking at as Appendix A to Exhibit 33.

4 A I did not prepare this document.

5 Q Okay. And so any answers that you gave to
6 Mr. Schmitt about why particular examples were
7 attached to this memo would have been speculation,
8 correct?

9 MR. SCHMITT: Objection. Form.

10 Q I'm sorry. I didn't hear your answer,
11 sir.

12 A That's correct.

13 Q Does it say anywhere on Appendix A or in
14 the memo that the Office of the Attorney General has
15 any concern about the example concerning Cathedral
16 Christian School?

17 MR. SCHMITT: Objection. Form.

18 A No, it does not.

19 Q Okay. Thank you. Do you know if
20 Cathedral Christian School was one of the schools
21 that received a letter from Monica Kearns raising

1 concerns about their handbook language?

2 A I do not believe so.

3 MR. SCOTT: Okay. Paul, could you be kind
4 enough to put up Exhibit 2, please?

5 MR. SCHMITT: Sure. Stop share.

6 MR. SCOTT: Could you go to page seven?

7 (Pause.)

8 Q Mr. Klarman, this is the Exhibit 2 which
9 you were showed earlier as the Bethel handbook from
10 2017-2018.

11 Do you remember being asked questions
12 about this?

13 A I do.

14 Q All right. Were you the person that
15 decided that the admissions policy reflected on this
16 page violated the nondiscrimination provisions in
17 the BOOST law? Was that you who decided that?

18 A That it violated the provisions, no. I
19 did not make any decisions on violations.

20 Q Okay. And you were also shown
21 Exhibit 21A, which was Bethel's subsequent handbook

1 from 2019-2020, which was Exhibit 21A.

2 Were you the person that decided that
3 Bethel's policies in that handbook violated the
4 BOOST or the Aid to Nonpublic School program?

5 MR. SCHMITT: Objection.

6 A I made no decisions to exclude a school
7 from any program.

8 Q Those decisions were made by others,
9 correct?

10 A That is correct. All decisions came from
11 further up.

12 MR. SCOTT: I don't have any other
13 questions. Thank you for your time today.

14 Do you have anything else, Paul?

15 MR. SCHMITT: No. I think we're good.

16 MR. SCOTT: All right.

17 MR. SCHMITT: I think we can wrap up and
18 then let Marva Jo on.

19 MR. SCOTT: Okay. So Mr. Klarman will
20 read and sign his transcript, Madam Reporter.
21 Thank you.

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MR. SCHMITT: Jamie, thank you again for your time today in making yourself available. I appreciate it.

THE WITNESS: Thank you.

THE VIDEOGRAPHER: This concludes today's recorded deposition.

We are off the video record at 1:59 p.m.

(Time Ended: 1:59 p.m.)

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Certificate of Deponent

I hereby certify that I have read and examined the foregoing transcript, and the same is a true and accurate record of the testimony given by me.

Any additions or corrections that I feel are necessary, I will attach on a separate sheet of paper to the original transcript.

JAMES ALAN KLARMAN

Job no. 4538185

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STATE OF MARYLAND

I, Diane Houlihan, a Notary Public in and for the State of Maryland, County of Anne Arundel, do hereby certify that the within named, James Alan Klarman, personally appeared before me at the time and place herein set according to law, was interrogated by counsel.

I further certify that the examination was recorded stenographically by me and then transcribed from my stenographic notes to the within printed matter by means of computer-assisted transcription in a true and accurate manner.

I further certify that the stipulations contained herein were entered into by counsel in my presence.

I further certify that I am not of counsel to any of the parties, not an employee of counsel, nor related to any of the parties, nor in any way interested in the outcome of this action.

AS WITNESS my hand Notarial Seal this 26th day of April, 2021, via Zoom.



Diane Houlihan
Notary Public

My commission expires September 16, 2021

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate.

The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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EXHIBIT 7

Fiscal Year 2017 – SB 190; Chapter 143 2016 Laws of Maryland

(d) comply with Title VI of the Civil Rights Act of 1964 as amended, Title 20, Subtitle 6 of the State Government Article, and not discriminate in student admissions on the basis of race, color, national origin, or sexual orientation. Nothing herein shall require any school or institution to adopt any rule, regulation, or policy that conflicts with its religious or moral teachings. However, all participating schools must agree that they will not discriminate in student admissions on the basis of race, color, national origin, or sexual orientation. If a nonpublic school does not comply with these requirements, it shall reimburse MSDE all scholarship funds received under the BOOST Program and may not charge the student tuition and fees instead. The only other legal remedy for violation of this provision is ineligibility for participating in the BOOST Program.

Fiscal Year 2018 – HB 150; Chapter 150 2017 Laws of Maryland

(d) comply with Title VI of the Civil Rights Act of 1964 as amended, Title 20, Subtitle 6 of the State Government Article, and not discriminate in student admissions on the basis of race, color, national origin, or sexual orientation. Nothing herein shall require any school or institution to adopt any rule, regulation, or policy that conflicts with its religious or moral teachings. However, all participating schools must agree that they will not discriminate in student admissions based on race, color, national origin, or sexual orientation. If a nonpublic school does not comply with these requirements, it shall reimburse MSDE all scholarship funds received under the BOOST Program and may not charge the student tuition and fees instead. The only other legal remedy for violation of this provision is ineligibility for participating in the BOOST Program.

Fiscal Year 2019 – SB 178; Chapter 570 2018 Laws of Maryland

Any school that is found in violation of the nondiscrimination requirements in fiscal 2018 or 2019 may not participate in the program in fiscal 2019. It is the intent of the General Assembly that a school that violates the nondiscrimination requirements is ineligible to participate in the Aid to Non–Public Schools Program, the Broadening Options and Opportunities for Students Today Program, and the Nonpublic Aging Schools Program in the year of the violation and the following two years.

(d) comply with Title VI of the Civil Rights Act of 1964 as amended, Title 20, Subtitle 6 of the State Government Article, and not discriminate in student admissions on the basis of race, color, national origin, or sexual orientation. Nothing herein shall require any school or institution to adopt any rule, regulation, or policy that conflicts with its religious or moral teachings. However, all participating schools must agree that they will not discriminate in student admissions based on race, color, national origin, or sexual orientation. If a nonpublic school does not comply with these requirements, it shall reimburse MSDE all scholarship funds received under the BOOST Program and may not charge the student tuition and fees instead. The only other legal remedy for violation of this provision is ineligibility for participating in the BOOST Program.

Fiscal Year 2020 – HB100; Chapter 565 2019 Laws of Maryland

(1) To be eligible to participate in the BOOST Program, a nonpublic school must: (a) ~~participate~~ 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;



(d) comply with Title VI of the Civil Rights Act of 1964 as amended, Title 20, Subtitle 6 of the State Government Article, and not discriminate in student admissions, **retention, or expulsion or otherwise discriminate against any student** on the basis of race, color, national origin, or sexual orientation, **or gender identity or expression**. Nothing herein shall require any school or institution to adopt any rule, regulation, or policy that conflicts with its religious or moral teachings. However, all participating schools must agree that they will not discriminate in student admissions, **retention, or expulsion or otherwise discriminate against any student** based on race, color, national origin, or sexual orientation, **or gender identity or expression**. If a nonpublic school does not comply with these requirements, it shall reimburse MSDE all scholarship funds received under the BOOST Program for the **2019–2020 school year** and may not charge the student tuition and fees instead. The only other legal remedy for violation of this provision is ineligibility for participating in the BOOST Program.

EXHIBIT 8

From: Laurie Kinkel <laurie@goldsekerfoundation.org>
To: Matthew Gallagher <matt@goldsekerfoundation.org>
Subject: RE: Bethel Ministries vs Boost
Date: Tue, 25 Jun 2019 11:34:37 -0400

From what little I read of your attachment, the whole thing reads as a cautionary tale regarding any of these public programs that provide funding to private schools. I mean, honestly, how does any Catholic school qualify?

From: Matthew Gallagher [mailto:matt@goldsekerfoundation.org]
Sent: Tuesday, June 25, 2019 9:26 AM
To: Laurie Kinkel <laurie@goldsekerfoundation.org>
Subject: Re: Bethel Ministries vs Boost

The whole thing might get shut down. Almost all of the legislative champions are gone and there is no way they can pass a bill that threads the needle on doing this without discriminating. It's an area ripe for legal challenge because the non-discrimination provisions are in conflict with the religious freedom provisions.

Had actually been thinking about stepping away from this because it's almost reached a point where all the new money is going to public school students, not incumbent private school students.

On Tue, Jun 25, 2019 at 9:11 AM Laurie Kinkel <laurie@goldsekerfoundation.org> wrote:

I'll have to read it. But seriously, is BOOST worth it (you know my feelings about that one)?

From: Matthew Gallagher [mailto:matt@goldsekerfoundation.org]
Sent: Tuesday, June 25, 2019 9:11 AM
To: Laurie Kinkel <laurie@goldsekerfoundation.org>
Subject: Re: Bethel Ministries vs Boost

This one rips in to me fairly directly. Must have been one of the videotaped sessions.

On Tue, Jun 25, 2019 at 9:06 AM Laurie Kinkel <laurie@goldsekerfoundation.org> wrote:

Again? There are probably better ways to spend your time.

From: Matthew Gallagher [mailto:matt@goldsekerfoundation.org]
Sent: Tuesday, June 25, 2019 9:04 AM
To: Laurie Latuda <laurie@goldsekerfoundation.org>; Terri A. Debord <terri@goldsekerfoundation.org>
Subject: Fwd: Bethel Ministries vs Boost

I'm getting sued, good times.

----- Forwarded message -----

From: **Elizabeth A. Green** <egreen@pklaw.com>
Date: Tue, Jun 25, 2019 at 5:36 AM
Subject: Bethel Ministries vs Boost
To: matt@goldsekerfoundation.org <matt@goldsekerfoundation.org>

Matt

Exhibit
132

This was filed yesterday. I sent Liz a copy.

Elizabeth

Elizabeth A. Green
Member
Pessin Katz Law, P.A. (PK Law)
901 Dulaney Valley Road | Suite 500 | Towson, MD | 21204
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--
Matthew D. Gallagher
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-
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EXHIBIT 9

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
NORTHERN DIVISION

BETHEL MINISTRIES, INC., *
Plaintiff, * Case No.
vs. * 1:19-cv-01853-SAG
DR. KAREN B. SALMON, *
et al., *
Defendants *

* * * * *

Videotaped remote deposition of LINDA
EBERHART, was taken on Monday, April 19, 2021,
commencing at 1:38 p.m., in Baltimore, Maryland,
before Allison L. Shearer, RPR, a Notary Public.

Reported By: Allison L. Shearer, RPR

1 APPEARANCES :

2 On behalf of the Plaintiff:

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21 ALSO PRESENT: Mr. Brian Mackey, Esquire

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EXAMINATION INDEX

LINDA EBERHART

BY MR. SCHMITT

6

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Note: Exhibits maintained in Veritext

Exhibit Share.

1 VIDEOGRAPHER: We are going on the record
2 at 1:38 p.m. On April 19, 2021. This is media unit
3 one in the deposition of Linda Eberhart in the
4 matter of Bethel Ministries, Incorporated versus
5 Dr. Karen B. Salmon, et al., in the United States
6 District Court for the District of Maryland,
7 Northern Division. Case number 1:19-cv-01853-SAG.

8 My name is Brian Mackey from Veritext and
9 I'm the videographer. The court reporter today is
10 Allison Shearer from Veritext. Will counsel please
11 state their appearances and affiliations for the
12 record.

13 MR. SCHMITT: Hi. This is -- oh, go
14 ahead, Ann. I'm sorry,

15 MS. SHERIDAN: Sorry. Ann Sheridan,
16 Assistant Attorney General, representing Linda
17 Eberhart and the other defendants and I'm defending
18 this deposition today.

19 MR. SCHMITT: I'm Paul Schmitt on behalf
20 of the plaintiffs with Alliance Defending Freedom.
21 I've also got Ryan Tucker and Jacob Reed observing

1 today. I'll be taking the deposition.

2 MS. SHERIDAN: And Justin Fine, Assistant
3 Attorney General, my from office I believe is also
4 observing.

5 VIDEOGRAPHER: Will the reporter please
6 swear in the witness.

7 LINDA EBERHART,
8 the Deponent, called for videotaped examination by
9 the Plaintiff, being first duly remotely sworn to
10 tell the truth, the whole truth, and nothing but
11 the truth, testified as follows:

12 EXAMINATION

13 BY MR. SCHMITT:

14 Q. Hi, ma'am. My name is Paul Schmitt. I'm
15 an attorney with ADF and I represent Bethel. Thank
16 you for making yourself available today. I really
17 do appreciate your time. It helps us get
18 everything sorted out with this case.

19 I'm going to run through some just
20 general kind of guidelines on all this -- how this
21 all works and all that. Have you ever been deposed

1 before?

2 A. No.

3 Q. Okay. And have you ever been involved in
4 a lawsuit before this -- this action?

5 A. No.

6 Q. Okay. So this will be maybe a little
7 new. I know it's not particularly fun, but the --
8 the goal is -- so in litigation in the United
9 States we have what's considered pretty broad
10 discovery with the parties trading a lot of
11 documents and then what the purpose of today is is
12 basically we take depositions of -- of your -- the
13 defendants and some of the MSDE staff to try to get
14 an understanding of what happened and then you
15 folks are doing the same with some of our school
16 officials, and at end we all have different
17 motions, and we go on from there.

18 But -- so the goal here is to just try to
19 get a good idea of the who, what, when, where, why
20 of things that happened in the BOOST program during
21 the relevant period of time.

1 So I've got a few things -- because this
2 is unusual. Usually we'd all be sitting in a room
3 maybe around a big conference table. I've got a
4 few things I just want to run through because this
5 is electronic. So do you have anybody else in the
6 room with you today?

7 A. No, just my puppy.

8 Q. Okay. We had a -- we had a dog named
9 Lucy on the previous deposition today so it's a
10 good -- it's a good theme.

11 A. Yeah. She's pretty good. She should be
12 quiet. I took her for a long walk.

13 Q. Okay. Great. Well, she can't help you
14 with any answers. That's the only thing I would --

15 A. Yes.

16 Q. -- I would request. So if anybody -- if
17 anybody aside from your puppy comes into the room
18 at any time, please do let me know. And then as
19 far as things -- I know you're looking at a screen
20 obviously to see me. Aside from the screen, do you
21 have any other materials, notebooks or documents or

1 anything like that?

2 A. No, I just have a pad that I jotted a few
3 things down as I was thinking about the process.

4 Q. Okay. So you made some notes to help you
5 with your recollection?

6 A. Yes.

7 Q. Okay. And did -- did -- what kind of
8 things did you review to prepare for today? Did
9 you have documents or anything like that that you
10 looked at?

11 A. I looked at a few of the emails that --
12 the emails and documents that had been sent to me,
13 but there were so many over the course of two
14 months --

15 Q. Right.

16 A. -- to go through every one.

17 Q. Okay. And these were documents sent
18 presumably by your counsel so it's probably
19 stuff --

20 MS. SHERIDAN: Objection.

21 MR. SCHMITT: Okay -- in this

1 case. Great. So okay. And then the only other
2 thing I'd ask is -- as far as that goes, do you
3 have anything on your screen pulled up or anything
4 like that other than the Zoom link?

5 THE WITNESS: No, I'm not sure how to do
6 that.

7 BY MR. SCHMITT:

8 Q. So that's all good. You're able to hear
9 and see me clearly?

10 A. Yes.

11 Q. Good. Good. Okay. Unless I tell you
12 otherwise, I'd -- I'd request that you not refer to
13 notes or anything else for your answers unless I
14 ask you to. If you have something that you want to
15 refresh, just say so and we can -- we can talk
16 about it then.

17 Obviously same thing goes -- you know, we
18 don't do phone-a-friend or so if there's -- if you
19 have a cell phone or something like that, don't
20 look at it while we're -- while we're going through
21 answers or questions or any other type of

1 communication that way.

2 And then today there's going to be some
3 documents that I'll show you to kind of walk
4 through the process of what happened and try to get
5 some facts nailed down a bit so I'll introduce
6 those as exhibits.

7 What we did before, and it seemed to work
8 pretty well and I'll probably do it again, is I'll
9 share my screen with you so it will pop up right in
10 front of you and then if you want to see a
11 different part of the document, just tell me hey,
12 can you scroll up, scroll down and, you know, I
13 will try to zoom in on what -- what you need. If
14 you can't read or see something clearly, let me
15 know and we'll get that addressed.

16 And another thing to think about too, if
17 anything happens with the technology; so last week
18 when our -- when our clients were getting deposed
19 or maybe it was two weeks ago, we were having some
20 technological issues. If something like that
21 happens, just say so. Let us know and we'll pause

1 and -- and get it fixed and then move on.

2 The other thing is I don't want this to
3 take all afternoon, but the one in the morning took
4 longer than I had hoped so if you ever need a
5 break, if you need to use the restroom, if you need
6 to get a drink of water or something like that,
7 just as soon as you finish whatever answer you're
8 on, just ask and we'll -- we'll go ahead and take a
9 break as needed. And given how my lunch is sitting
10 right now, I might want to take a break.

11 Okay. Good. Any questions, comments, concerns
12 before we jump in?

13 A. No.

14 Q. Okay. So then as far as this goes, I'm
15 going to do a couple procedural things that are
16 more for the record so could you please -- oh, and
17 also, I'm sorry, how do you prefer me to address
18 you? Would you like your Mrs. and last name or a
19 particular title, first name? Is there any -- any
20 preference?

21 A. You can do what my students do,

1 Ms. Eberhart or you can just say Linda is fine.

2 Q. Okay. Ms. Eber -- Eberhart, right?

3 A. Yes.

4 Q. Okay. I'll do that. You can call me
5 Paul, if you'd like.

6 A. Okay.

7 Q. I answer to other aliases, but that --
8 that's fine, too. Okay. So Ms. Eberhart, could
9 you please tell me -- say and spell your full name
10 for the record, please.

11 A. Linda Eberhart, L-I-N-D-A,
12 E-B-E-R-H-A-R-T.

13 Q. Great. And Ms. Eberhart, where do you
14 live?

15 A. Baltimore, Maryland. Exact address?

16 Q. No, that's okay. And what -- can you
17 tell me a little bit about your educational
18 background, please?

19 A. I went to -- I got by Bas -- Bachelor's
20 at Towson University, got my Master's at Hopkins,
21 and then 30 credits beyond my Master's I became an

1 elementary school teacher in Baltimore City in
2 1970.

3 I retired as head of Teaching and
4 Learning in Baltimore City Schools in September
5 2012 and I've been retired since. I then went to
6 serve in the State board of Education for four
7 years until 2016 and I was then appointed to the
8 BOOST Board at the end of 2016.

9 Q. Great. Great. So was there any -- there
10 was no overlap between your time on the State Board
11 and your time on the BOOST Board?

12 A. The term ended the -- the last day of
13 June and I started the first day of July on the
14 BOOST Board.

15 Q. Great.

16 A. And I was a school teacher for 38 years
17 in between.

18 Q. Right. My parents are educators or were,
19 they just retired not too long ago, so I'm very
20 familiar with it. Okay. So you started on the
21 BOOST Board in July of 2016. This was at the

1 beginning of the BOOST program, correct?

2 A. Yes.

3 Q. Okay. And then as I understand it, the
4 BOOST Board is made up of members appointed by
5 separately the Governor's Office, the Senate
6 Speakers -- or excuse me, Senate President's Office
7 and the Maryland House Speaker's Office; is that
8 correct.

9 A. That's correct.

10 Q. Okay. And do you know how your
11 appointment came about?

12 A. Speaker Bush appointed me.

13 Q. Okay. And how did you learn about your
14 appointment to the BOOST Board?

15 A. I got a letter.

16 Q. Okay.

17 A. And a phone call.

18 Q. Okay.

19 A. Because --

20 Q. And then --

21 A. -- it then started immediately. I

1 believe we had a meeting within that first week
2 because we had a lot of work to do --

3 Q. Okay.

4 A. -- that first summer to get scholarships
5 out to the students by beginning of school in
6 September.

7 Q. Got it. So not a lot of ramp-up time
8 then?

9 A. None.

10 Q. Okay. So then -- and then had anybody
11 reached out to you before that point, before you
12 received that letter asking about your willingness
13 to serve on the BOOST Board?

14 A. Delegate McIntosh had asked me if I would
15 be willing to serve and encouraged me to say yes.

16 Q. Okay. That's great. And how did you
17 know Delegate McIntosh?

18 A. I've known her for 45 years since
19 1975. She was a school teacher teaching art. I
20 was a school teacher teaching. We were in
21 different schools, but we lived in the same area of

1 Baltimore.

2 Q. Great.

3 A. And have --

4 Q. And --

5 A. -- kept in touch for all these years.

6 Q. Okay. And I -- I missed something you
7 might have said, but I didn't quite catch it. Did
8 you say what -- were -- was there a particular
9 subject matter or grade level that you taught most
10 of those years?

11 A. I taught fourth and fifth grade most of
12 my time. I taught third grade maybe the beginning
13 year or two.

14 Q. Okay. Great. Thank you. So you
15 mentioned that the BOOST Board -- you joined the
16 BOOST Board in July of 2016. The program is
17 starting and you've got kids coming in for the fall
18 so there's not a lot of lead-up time and there's a
19 lot of work to do, okay.

20 The BOOST program had certain
21 requirements that schools had to fulfill in order

1 to participate; is that correct?

2 A. Yes.

3 Q. Okay. Do you recall, how did the BOOST
4 Board decide to implement or enforce those
5 requirements as they were launching the program or
6 getting the program launched?

7 A. So there were school requirements and
8 parent requirements. So the first thing was to
9 come up with some kind of computerized system and
10 database to keep track of the students and to keep
11 track of the schools on the school level. Then, we
12 had what we called assurances and then at the
13 student-parent level, the types of things that we
14 needed in order to meet the requirements of the
15 Bill language for students to participate in the
16 program.

17 Q. Okay. I want to ask you a little
18 question about the assurance -- the assurances that
19 you mentioned with respect to the schools. Where
20 did the concept of the insurance -- assurances,
21 excuse me, come from?

1 A. I'm not -- I don't remember. I -- it
2 seemed like because we were dealing with nonpublic
3 schools there was a model already set up under the
4 textbook program so I -- I really -- I think it was
5 something that was already in place and we just had
6 to modify it for the assurances based on what the
7 Bill language was.

8 Q. Got it. So is it fair to say that it was
9 a -- it was something that was already in place for
10 the textbooks program that got borrowed for the
11 BOOST program?

12 A. I believe so.

13 Q. Okay. Gotcha. That was very helpful.

14 A. Same concept.

15 Q. Right. Okay. And then as far as -- so
16 you develop these assurances and there were these
17 requirements. What was the BOOST Board's role as
18 you're forming your group and kind of getting
19 launched? What was the BOOST Board's role in -- in
20 setting like the policies for the schools to follow
21 to be in the program?

1 A. It was the policies -- I mean, most of
2 the time we spent was trying to implement the
3 student side of what the scholarships would be, the
4 kind of ranking. I mean, now looking back -- oh,
5 of course it seems very simple, but we had, you
6 know, dozens and dozens of options for the student
7 side.

8 So that's where we spent I would say 99
9 percent of our time; trying to implement what would
10 be the easiest and fairest way for the -- for
11 students to be able to get -- and families to be
12 able to get scholarships.

13 So the assurances were not, from what I
14 remember, not discussed very much. It was someone
15 came, if it was the per -- you know, I -- I don't
16 remember. I just don't remember a lot of
17 discussion about assurances. We would go back to
18 -- yes, did schools have these assurances, but that
19 was not in the beginning years at all.

20 Q. Sure. I want to go back to your
21 statement about, you know, there was a short fuse

1 about getting the program launched.

2 Do you remember what steps the BOOST
3 Board or the MSDE took to get schools to become
4 part of the BOOST program?

5 A. I'm not sure, but I believe it was every
6 school that qualified for the textbook program
7 assumed that we would reach out to those schools to
8 do it and then again, it wasn't schools as much as
9 students. We needed students -- parents to apply
10 so how did we notify families to be able to say,
11 you know, here's this opportunity.

12 Q. Okay. So is it your understanding that
13 there was some effort probably made to the schools,
14 but there's more -- but I'm just trying to clarify
15 that I understand your answer. There was some
16 effort to -- to get the schools in the program, but
17 most of the effort was on notifying families and
18 getting them to apply?

19 MS. SHERIDAN: Objection.

20 THE WITNESS: Yes.

21 MR. SCHMITT: Okay. You can answer.

1 THE WITNESS: From what I remember, most
2 of our discussion was about the operation of the
3 program itself and assurances as were needed came
4 up along the way.

5 BY MR. SCHMITT:

6 Q. Gotcha.

7 A. But as time went on, we wanted to make
8 sure that schools understood what we were doing so
9 in the last few years MSDE started having meetings
10 with schools at the beginning of each cycle to say
11 here's where we are, this is what we're doing, and
12 they then reached out to schools to be able to
13 answer questions or do whatever. So we were trying
14 to keep schools in the loop of everything that was
15 going on.

16 Q. Do you remember when those meetings with
17 the schools started approximately?

18 A. I would say at least by the third year of
19 the program it became routine at the beginning of
20 each cycle because the first cycle, I mean, there
21 was not face-to-face meetings, but communication

1 through emails. I'm not sure. I'm sorry.

2 Q. That's okay. And these meetings were
3 with groups so it would be representatives from
4 different schools or were they individual schools?

5 A. I -- we were not part of those
6 meetings. MSDE conducted those meetings.

7 Q. Okay. Go ahead. Sorry.

8 A. But I think they -- I mean, they were
9 with groups in-person or on phones, conferences,
10 not individual. Because I believe we had close to
11 200 schools participating.

12 Q. Great. About 200 schools. Okay. And
13 then do you know what the number of participating
14 schools is -- well, let me ask you this: Are you
15 still currently on the BOOST Board?

16 A. I am.

17 Q. So you -- you have literally been on the
18 BOOST Board the entire time the program has been
19 around?

20 A. Yes, and I'm -- yes, I have.

21 Q. And so do you know how many schools

1 roughly participate now?

2 A. I would -- you know, we add some; some go
3 out. I don't know.

4 Q. Okay.

5 A. We have not had a meeting this year so I
6 don't know and the last communication about schools
7 is what was sent to the legislature in
8 December/January as a summary of what happened
9 before and I -- I just don't remember the number.

10 Q. Okay. Great. Well, that's -- that's
11 great. Thank you. So I'm going to show you a
12 document now, if I can get this to work right. And
13 I have marked this as Exhibit 31.

14 (Whereupon, House Bill 150 Language was
15 entered as Exhibit No. 31 by counsel in Exhibit
16 Share.)

17 Q. And do you recognize this?

18 A. I don't see anything.

19 Q. Oh. I have to press a button. I'm
20 sorry.

21 A. I needed to say something.

1 Q. Okay. Voila.

2 A. Okay.

3 Q. So I'm going to show you this
4 document. It is marked as Exhibit 31 and it has a
5 Bates number of 0058 on it. Do you see that?

6 A. Okay. The year 2018. Okay.

7 Q. Okay. And do you recognize what this is?

8 A. This is the language in the Budget Bill
9 that determines what the legislature -- the amount
10 of money that is set aside and the regulations or
11 -- that's probably the wrong word -- the
12 requirements that they want schools teach -- and
13 individuals to get the BOOST portions.

14 Q. Okay. So you recall seeing probably
15 different versions of this each -- each year?

16 A. Yes.

17 Q. Okay. I'm going to scroll down a little
18 bit. So you see here there's conversation about
19 aid to nonpublic schools and then if you go down a
20 little further -- where is that at -- there we go.
21 Do you see this subsection A03.05, Broadening

1 Options and Opportunities for Students Today?

2 A. Yes.

3 Q. So do you recognize this as the relevant
4 Budget Bill language for the BOOST program?

5 A. It looks like it.

6 Q. Okay. And just as an aside, I should
7 have said this at the beginning, but I forgot. I'm
8 going to ask what seem like stupid questions
9 sometimes. And it's not -- I don't mean to insult
10 your intelligence or to -- to reveal my lack of
11 intelligence.

12 It's -- the purpose of it is because
13 when these depositions are finished, they'll be put
14 on a transcript so a lot of my questions are
15 designed to help whoever is reading the transcript
16 identify what you and I are talking about because
17 they won't have the benefit of seeing our screens
18 or seeing us face-to-face.

19 So if I ask a -- a question and you're
20 thinking well, duh, Paul, it's right in front of
21 you, that's -- that's the reason for that

1 so... Okay. So thank you for that.

2 And then let's see. If you scroll -- or
3 if I scroll down into the BOOST language a little
4 further, you'll see there's discussion about --
5 here's the eligibility discussion under subsection
6 one and then if you go down to subsection two
7 through four, it's got discussions about the MSDE
8 and then finally, at subsection five there is this
9 language. And could you do me a favor and read the
10 highlighted portion?

11 A. "There is a BOOST advisory board that
12 shall be appointed by the Governor, 2 members
13 pointed by President of the Senate, 2 members
14 appointed by the Speaker of the House of Delegates,
15 1 member jointly appointed by the President and the
16 Speaker to serve as the chair."

17 Q. Great. Thank you. Okay. And then what
18 does subsection six say?

19 A. Pardon? Would you repeat that?

20 Q. Could you tell me what subsection six
21 says?

1 A. Okay. "The BOOST advisory shall review
2 and clarify the ranked list of applicants and shall
3 determine the scholarship award amounts."

4 Q. Okay. And then aside from subsection
5 six, are you aware of any other provision in the --
6 in the statute -- or the Budget Bill that assigned
7 authority to the BOOST Board?

8 A. I -- I don't know.

9 Q. Okay. But -- okay. So maybe a different
10 question. When BOOST Board was forming in the
11 summer of 2016, what did each -- what did you
12 understand your responsibilities to be?

13 A. That we were to determine the operational
14 procedures, budget amounts to be awarded for
15 scholarships, policies that were not specifically
16 stated in the Board of how this should operate in
17 order to broaden options and opportunities for
18 students, which is what BOOST stands for.

19 Q. Great. Okay. Thank you. Okay. So you
20 just mentioned policies that were not listed in
21 here. Let's talk about policies that were. If you

1 look at subsection one, am I correct that it is
2 listing eligibility -- an eligibility requirement
3 for nonpublic schools?

4 A. Yes.

5 Q. Okay. And then I'll just skip down to
6 the relevant part. So in the subsections below,
7 the sub-subsections below subsection one, do you
8 see subsection -- or excuse me, sub-subsection D?

9 A. Yes.

10 Q. Okay. Could you -- could you walk me
11 through or go ahead and read for me this
12 sub-subsection up until -- up until -- or just
13 maybe this highlighted portion.

14 A. "Comply with Title VI of the Civil Rights
15 Act of 1964 as amended, Title 20, Subtitle 6 of the
16 State Government Article and not discriminate in
17 student admissions on the basis of race, color,
18 national origin, and sexual orientation.

19 Nothing herein shall require the school
20 or institution to adopt any rule, regulation, or
21 policy that conflicts with its religious or moral

1 teachings. However, all participating schools must
2 agree that they will not discriminate in student
3 admissions based on race, color, national origin,
4 or sexual orientation."

5 Q. Great. Thank you. So with respect to
6 this eligibility requirement, how would a school
7 discriminate in student admissions on the basis of
8 sexual orientation?

9 A. I'm not sure your question.

10 Q. Okay. What would a school have to do to
11 discriminate on a basis of sexual orientation in
12 student admission?

13 A. We in -- we did not have this discussion
14 in '16 or '17. It was just assurance that the
15 school said they did not discriminate.

16 Q. Okay. So there was --

17 A. Um --

18 Q. Oh, go ahead. I'm sorry.

19 A. Then, the Maryland State Council of PTAs
20 came and said that there was an issue in their
21 handbooks and that it showed that discrimination

1 could happen so there was discussion what we could
2 do.

3 So we wound up with all the handbooks,
4 asking all the schools to send us their handbooks
5 or other materials that were participating in the
6 program. So then there were a number of meetings
7 and discussion about what this meant and how did we
8 define it and there were a variety of discussions.

9 And it basically came down to and what I
10 believed was the consensus of the BOOST Board, that
11 there was orientation, what a child believes that
12 they are, and the actual behavior of students and
13 that behavior, the schools would be able to
14 discipline, to do whatever as long as the behavior
15 was consistent within all the students of the
16 school.

17 It was our line we tried to draw very
18 clearly that it was the orientation versus the
19 behavior of the students, if that helps.

20 Q. It does help. There's a lot to unpack
21 there so I'll probably ask a lot of follow-up

1 questions about different portions of your answer.

2 Okay. So you mentioned that there were
3 discussions that had to occur about what -- what
4 this provision meant and how to interpret it. Do
5 you remember telling me that?

6 A. Yes.

7 Q. Okay. So when did those discussions or
8 meetings occur?

9 A. I -- I don't have the exact dates, but
10 they were meetings after we got back. When there
11 were questions about -- that came up about the
12 sexual orientation admissions policy, letters were
13 sent to schools, schools could then clarify their
14 admissions policy, they could change their language
15 in their admissions policies.

16 So as these came back, then we would have
17 discussions about did this meet, you know, what the
18 policy of the Bill language was, which was would
19 not discriminate against.

20 Q. But it sounds like it -- or is it correct
21 that the policy wasn't clear at the time before the

1 Maryland PTA reached out as to what this meant; you
2 had to interpret it after the fact?

3 MS. SHERIDAN: Objection.

4 THE WITNESS: You want me to answer?

5 MR. SCHMITT: You can answer.

6 THE WITNESS: Our main purpose -- I mean,
7 our -- most of our discussions -- we did not --
8 there was -- if a school said this is what their
9 assurance was and that there was no question about
10 it, then yes, we accepted that.

11 When assurances were not met; i.e, if
12 they had -- one of the assurances, that they had to
13 give certain tests. If they had not sent in their
14 test results, you know, we would not give them the
15 money for their students until that happened.

16 So we did deal with assurances in
17 different ways along the way in '16, '17, and '18,
18 and continued to do that. We did not go looking
19 to -- you know, if they checked off yes, they met
20 this assurance, that was fine.

21 BY MR. SCHMITT:

1 Q. Okay. Let's see here. I'm going to show
2 you something, another document here, but I need to
3 pull it out of a different folder. My apologies
4 for the brief delay. Let me see where that's at.

5 I'm going to show you what I have marked
6 as Exhibit 32. Maybe. Sorry. Okay. I'll share
7 this with you here.

8 (Whereupon, 2017.10.11 Bethel Defendants
9 1056 - MD PTA letter complaining of Trinity's
10 Biblical Lifestyle Reqs was entered as Exhibit No.
11 32 by counsel in Exhibit Share.)

12 BY MS. SHERIDAN:

13 Q. Okay. Ms. Eberhart, do you see this
14 document?

15 A. A letter from the Maryland PTAs.

16 Q. Okay. And it's marked Exhibit 32. It's
17 got a Bates stamp on it, Bethel Defendants 1056; is
18 that correct?

19 A. Yes.

20 Q. Okay. Do you see that this is dated
21 October 11th of 2017?

1 A. Yes.

2 Q. Okay. Would this letter have come around
3 the time -- or was this letter the -- the way that
4 you became aware of issues with school handbooks
5 with respect to the nondiscrimination portion?

6 A. I believe -- I believe someone from the
7 PTA actually came to the BOOST meeting to talk
8 about it.

9 Q. Great. And that would have happened
10 around this time that this letter was produced?

11 A. That sounds right, at the end of our
12 second round of scholarships.

13 Q. Great. And do you see here it identifies
14 a particular school with a particular handbook,
15 Trinity Lutheran Christian School?

16 A. Yes.

17 Q. Okay. And then --

18 MS. SHERIDAN: Can I interrupt? Sorry.
19 Can I interrupt for one minute, Paul?

20 MR. SCHMITT: Sure.

21 MS. SHERIDAN: Because I noticed that

1 the -- the print looks very, very tiny to me and I
2 don't know is that --

3 MR. SCHMITT: I think I can fix it. Does
4 that help?

5 MS. SHERIDAN: Yeah. Thank you.

6 MR. SCHMITT: Is that better?

7 THE WITNESS: Yes.

8 MR. SCHMITT: Okay.

9 MS. SHERIDAN: Thank you.

10 MR. SCHMITT: No problem.

11 BY MR. SCHMITT:

12 Q. Ms. Eberhart, do you remember who the
13 individual from the Maryland PTA was who came and
14 spoke?

15 A. No, I don't.

16 Q. Do you remember what that person's
17 position was?

18 A. No.

19 Q. Do you remember really much of anything
20 about what the particular conversation was or the
21 objection was?

1 A. Just that they had a committee reviewing
2 the handbooks that were online and they were
3 concerned.

4 Q. Okay. The Maryland PTA had a committee
5 reviewing those handbooks; that's what you're
6 saying?

7 A. That is my memory, but...

8 Q. Have you -- I mean, you've been in
9 education a -- a while. Have you had any kind of
10 interaction or experience with the Maryland PTA
11 before your time on BOOST?

12 A. No.

13 Q. Okay. All right. So let's see. Do you
14 remember whether the Maryland PTA brought any other
15 handbooks aside from Trinity Lutheran to your
16 attention?

17 A. I don't remember.

18 Q. You don't remember. Okay. In your
19 recollection --

20 A. But --

21 Q. Go ahead.

1 A. -- all I remember is that this seemed to
2 not be finished, that they brought us a beginning
3 piece of what --

4 Q. Got it.

5 A. -- they had discovered.

6 Q. Okay. Got it. So there was more coming?

7 A. Or that they wanted us to do something
8 more.

9 Q. Got it. What did you understand them to
10 want you to do?

11 A. I think they wanted us to require
12 handbooks from all the schools and have them
13 submitted to us and for us to go through all of
14 them.

15 Q. Okay. Is that what you did?

16 A. Ultimately, yes. I'm not sure when that
17 happened, if it was at that first meeting that you
18 showed me when they came or later in time.

19 Q. Did the Maryland PTA, either the person
20 who came to speak to that Board or through
21 different means, explain why they brought this

1 objection or how they came to find this objection?

2 A. I don't remember.

3 Q. Did they explain why they had a committee
4 looking at BOOST schools' handbooks?

5 A. It was against what the Bill language
6 said of discrimination.

7 Q. And do you know much about the Maryland
8 PTA as an organization?

9 A. No, not at all.

10 Q. Okay. Let's see. Let me find -- I have
11 another document I want to go over here. Okay. So
12 let's go back to some of the things that -- that we
13 wanted to unpack there.

14 So ultimately the BOOST Board decided to
15 request handbooks and go over them. Let's talk
16 about that process. How was that decision -- how
17 did the BOOST Board arrive at that decision?

18 A. As we arrived at all of our decisions,
19 Chairman Gallagher liked us to reach a consensus so
20 there was always a lot of discussion to come to a
21 point that we all believed was a fair way to

1 proceed.

2 Q. Okay. Why didn't --

3 A. And --

4 Q. Oh, go ahead. I'm sorry.

5 A. And how we got to that decision was, you
6 know, all of us believed that there was language
7 that was stated in some handbooks that we then
8 should not just look at one, but see what all -- to
9 be consistent across -- like we're consistent
10 across the assurance that all the schools have --
11 you know, send in their test data, that all the
12 schools -- another assurance is that they, you
13 know, verify that the students that we're giving
14 money to that -- are enrolled in their school.

15 So this is then -- you know, we had ways
16 to check the other assurances that -- before money
17 was given out and this assurance we just accepted
18 what the school said.

19 Given some language, we thought that we
20 should review all the handbooks or that MSDE staff
21 should review all handbooks.

1 Q. Okay. And then were there instances
2 where -- you mentioned that Chairman Gallagher
3 liked the Board to have consensus on issues. Are
4 there instances where the board was not in
5 consensus on decisions that it made?

6 A. No. It was amazing. I mean -- and I've
7 served on many boards over my 45 years in education
8 and we were a very diverse-thinking group, but our
9 bottom line was we wanted what was best for the
10 students of Maryland, to be fair and consistent for
11 all the students, and to have them to have an
12 option for, you know, this scholarship money to be
13 able to be used for that.

14 Q. How did the BOOST Board members work
15 together to ensure that there was consensus on all
16 these issues?

17 A. We talked and we talked and we talked,
18 and we listened to each other. I mean, it -- it
19 was a great communication and hearing what other
20 people are saying to arrive at that point.

21 Now, we had been working together for two

1 years on trying to figure out who got the
2 scholarship money, how much, so we all came from
3 many different points of view for that and we all
4 arrived at what we thought was a fair way to
5 distribute the money. So it was that same process
6 that we came to in each one of our decisions.

7 Q. All right. Thank you. Speaking of
8 processes, I want to turn now to the handbook
9 review process. You mentioned that you all worked
10 together and decided that you should review the
11 handbooks and that the MSDE should review all the
12 handbooks.

13 Is that your understanding of how that
14 worked? Like what was the -- starting from the
15 point where the decision is made that the handbooks
16 have to be reviewed until they go through it, then
17 you make your determinations, can you walk me
18 through that process?

19 A. I'm -- it's a couple years ago. I
20 mean -- I mean, one option was that the Board could
21 read every single handbook and that was no, we

1 weren't going to do it. We could let, you know,
2 the PTAs do it and said no.

3 I mean, so there were options as usual to
4 put out how this could be done and what would be
5 the fairest way to make this happen.

6 So I would assume that's what we did
7 here, what was the, you know, most reasonable and
8 fairest way to review all the handbooks.

9 Q. Okay. You -- so you mentioned earlier on
10 that there's probably about a couple hundred
11 schools in BOOST over -- over the time give or take
12 a few.

13 A. I would say, you know, 200, you know,
14 yes.

15 Q. Sure. So --

16 A. More than 150; less than 250 I believe.

17 Q. Okay. So you -- so you mentioned that
18 obviously the Board wasn't going to go through
19 let's just say for the sake of argument two hundred
20 handbooks to check the language. Did every school
21 have to submit a handbook and if so, who reviewed

1 those handbooks as an initial matter?

2 A. So it -- all I remember is what was --
3 MSDE assigned someone or a group of people to
4 review it. I don't know who they were. There was
5 a discussion about every school doesn't have a
6 handbook so we didn't -- we didn't want to put any
7 more on schools than they already had and that were
8 required by the State; i.e, you know, you have to
9 give a test, we need to know how many certified
10 teachers you have. Because these are things that
11 the State is saying that they want in this report
12 every year.

13 So for school handbook, if they didn't
14 want a handbook, we didn't want to require them to
15 have a handbook. We wanted then I believe just a
16 statement of what their policy was about
17 discrimination, if they didn't have a handbook.

18 Q. Okay. Was there certain language that
19 those policies had or those statements of the
20 policies had to included?

21 A. No. We -- it -- no, we didn't have like

1 a -- like a school teacher in my marking
2 explanation of a math problem; you know, I would
3 have a rubric that you need to have this in it,
4 this in it, you know, all these things that I could
5 check off.

6 The -- we would get back a summary of any
7 issues with the handbook of the language and then
8 we, the BOOST Board, had to decide was this
9 discriminatory.

10 Q. So am I correct -- I just want to make
11 sure I understand. I'm correct that the MSDE
12 performed an initial review of the handbooks that
13 got submitted or statements or whatever -- in lieu
14 of a handbook, a statement -- and then if there was
15 an issue that they spotted, they would refer it to
16 the BOOST Board?

17 A. Yes.

18 Q. -- is that correct? Okay. Did the BOOST
19 Board give the MSDE staff or the MSDE any guidance
20 in -- to conduct their initial review?

21 A. I don't remember.

1 Q. Okay. So you don't remember --

2 A. We did not come up with a rubric that
3 said it had to say this or had to say that.

4 Q. Okay.

5 A. So if that's what you mean by guidance --

6 Q. Sure.

7 A. -- no, we did not do that.

8 Q. Sure. So there -- so okay. So there's
9 no rubric. So and then the MSDE staff comes to you
10 guys with -- so about how many schools, do you
11 think, were referred to the BOOST Board by the
12 MSDE?

13 A. A few out of the, you know, 200 or so
14 schools that we had.

15 Q. Okay.

16 A. Maybe less than a dozen.

17 Q. Okay.

18 A. I -- I don't remember, but --

19 Q. Okay.

20 A. -- it wasn't a lot.

21 Q. Okay. So proportionally a small amount?

1 A. Yes.

2 Q. Okay. Let's look at that. Give me just
3 a second. I'm sorry about that.

4 A. Sure.

5 Q. Give me one second. I have to make sure
6 I pull the right thing up. Great. Okay. I
7 actually think it makes sense to do this in a
8 different order so I'm go to grab one more
9 thing. Sorry. Okay.

10 (Whereupon, 2018.01.09 BETHEL DEFENDANTS
11 1332 - MSDE and BOOST chair received legal guidance
12 memo was entered as Exhibit No. 33 by counsel in
13 Exhibit Share.)

14 MR. SCHMITT: Okay. I'm going to show
15 you an exhibit that I've got marked as
16 33. Okay. Do you see this?

17 THE WITNESS: Can you make it larger?

18 MS. SHERIDAN: Paul, can you -- yeah.
19 Can you --

20 MR. SCHMITT: Zoom in? How's that?
21 Better?

1 THE WITNESS: That's better. Thank you.

2 BY MR. SCHMITT:

3 Q. Okay. Ms. Eberhart, I've got this that
4 I've marked Exhibit 33. It's got a Bates stamp
5 number 1332. Do you see that --

6 A. Yes.

7 Q. -- on Bethel Defendants. Okay. Does
8 this look familiar to you?

9 A. No, but if I -- I'm sure I got it. I
10 just don't remember.

11 Q. Okay. And then do you see that it's from
12 Liz Kameen and Alan Dunklow to Matt Gallagher and
13 Monica Kearns?

14 A. Yes.

15 Q. Okay.

16 A. That's why I'm not sure that we were
17 given it, but I'm sure because Matt usually gave us
18 everything, yes.

19 Q. Okay.

20 A. And Liz would always refer to any
21 documents that she sent to us.

1 Q. Okay. And it's -- this is on Attorney
2 General's Office letterhead, right?

3 A. Yes.

4 Q. Okay. So I'm going to scroll down to a
5 different portion and then let's see. I'm going to
6 zoom out just a little bit so you can see it. Do
7 you see there are three paragraphs here that are
8 numbered one, two, and three?

9 A. Yes.

10 Q. Okay. Do you recall -- when the BOOST
11 Board was trying to make eligibility determinations
12 about BOOST schools, do you recall the -- the
13 schools that were brought to you by the MSDE being
14 broken down into three categories?

15 A. No.

16 Q. You don't? Okay. All right. Let me
17 pull up a different one. Okay. This is a document
18 that -- let me zoom out a bit -- I've marked
19 Exhibit 34. It's got a Bates stamp number Bethel-
20 Gallagher 0568 on it.

21 (Whereupon, 2018.03.07 Bethel-Gallagher

1 0568 - List of Cat3 or noncompliant schools was
2 entered as Exhibit No. 34 by counsel in Exhibit
3 Share.)

4 BY MR. SCHMITT:

5 Q. Do you see that?

6 A. Okay.

7 Q. And it's titled BOOST Schools with
8 Handbooks That Do Not Comply with the BOOST
9 Nondiscrimination Requirements as of March 7th and
10 then there's a second portion on the page, BOOST
11 Schools In Category 3 of the Legal Advice
12 Memorandum Nondiscrimination Requirements. And
13 that's as of April 2018. Do you see those things?

14 A. Yes, I do.

15 Q. Have you ever seen this document before?

16 A. Probably.

17 Q. Okay.

18 A. But I don't -- I don't remember this
19 specific document.

20 Q. Okay.

21 A. That --

1 Q. I'm sorry. Go ahead.

2 A. That, you know, we had discussions about,
3 that we needed to be clear about where -- how we
4 were trying to say a school had met or did not meet
5 the requirement. And as I said in the beginning,
6 we separated it into orientation and behavior --
7 behavior; i.e, discipline, things that we could
8 observe in the students -- versus just their belief
9 or orientation of sexual preference.

10 So -- so there were schools that, you
11 know, if we, you know, had questions -- I mean, we
12 said to the schools can you clarify, can you
13 explain, this seems to be...

14 You know, so we went through -- it
15 wasn't, you know, here it is, boom, that we made
16 this decision. There was a lot of from what I
17 remember back and forth with the schools and that
18 Bethel is one of the schools that had not basically
19 changed anything given what they had originally had
20 in their handbook.

21 Q. So had Bethel changed something, would

1 they have been allowed to continue to participate
2 in BOOST?

3 MS. SHERIDAN: Objection.

4 MR. SCHMITT: You can answer.

5 THE WITNESS: If it showed that they did
6 not discriminate, they would have been.

7 BY MR. SCHMITT:

8 Q. Okay. Did the BOOST Board expect schools
9 to change their language if it was problematic?

10 A. They just had to explain to us what they
11 were -- you know, what their intent was, what they
12 -- you know, if they discriminated.

13 Q. Okay. So -- okay. Given those things --
14 and you had -- you had told me earlier, I just want
15 to make sure I had that right, that there's this
16 difference between the policies that target
17 orientation on the one hand and then the policies
18 that are trying to target -- and -- for student
19 conduct on the other hand; is that right? You
20 tried to make a differentiation between those
21 things?

1 A. Yes.

2 Q. Okay.

3 A. I mean, that's where we eventually came
4 down to trying to say what -- where discrimination
5 would be observed or identified.

6 Q. Okay. Let me see. Did I already do
7 that? I'm going to share another document with you
8 because I want to ask you a little bit more about
9 that.

10 (Whereupon, Bethel 2017-18 Handbook was
11 entered as Exhibit No. 2 by counsel in Exhibit
12 Share.)

13 Q. Okay. All right. Ms. Eberhart, so this
14 -- do you see this document up on the screen here?

15 A. Yes.

16 MS. SHERIDAN: I'm sorry. Paul, can you
17 -- can you magnify it again, please?

18 MR. SCHMITT: Yeah, I will. Also, for
19 some reason the Bates stamp on this isn't showing
20 up, but I had marked it Exhibit 2. I don't know
21 why the sticker is not there, but okay. Okay.

1 And it was originally marked -- do you
2 see here, Ms. Eberhart, it was originally
3 Plaintiff's MPI Exhibit 1 with a Bates stamp of
4 0002?

5 THE WITNESS: Yes.

6 BY MR. SCHMITT:

7 Q. Do you recognize this document at all?

8 A. I don't remember it.

9 Q. You don't remember it? Okay. Do you
10 remember reviewing Bethel -- Bethel's student
11 handbook language when you made your determination?

12 A. Yes.

13 Q. Okay. Was the --

14 A. All --

15 Q. Go ahead.

16 A. All I remember is that Bethel had -- did
17 not have anything in there that said they did not
18 discriminate. They said they did not discriminate
19 on -- based on race or gender or, you know,
20 national orientation, but did not even have the
21 word sexual orientation in there as to

1 discrimination compared to all the other handbooks
2 that we had reviewed that did mention that they did
3 not discriminate based on sexual orientation.

4 Q. Was -- did the BOOST law contain a
5 provision that required participating schools to
6 include language in their handbook that said that
7 they did not discriminate on the basis of sexual
8 orientation?

9 A. It did not say -- it said that they could
10 not discriminate based on sexual -- the Bill
11 language.

12 Q. Okay. And had Bethel signed an assurance
13 instructing the Board that it did not discriminate?

14 A. Yes --

15 Q. Okay.

16 A. -- and some schools did. Some schools
17 chose not to participate in the program because
18 they could not provide that assurance.

19 Q. Okay. Sorry. That's not what I want...

20 A. Some schools I believe even dropped out
21 of the program because they could not provide that

1 assurance.

2 Q. Okay. And -- and did the law require the
3 schools to adopt a policy that said that they
4 wouldn't -- that affirmatively said they would not
5 discriminate on the basis of sexual orientation?

6 A. My understanding is that the language of
7 the Bill was that they could not discriminate.

8 Q. But you're not aware of any portion of
9 the law requiring them to affirmatively adopt
10 language or a policy?

11 A. Just like the law was not specific in
12 requiring what type of tests and who would be given
13 the tests. So policy was set by the BOOST
14 Board. I shouldn't say policy. The policy set by
15 the Bill language, but then to implement what the
16 Bill language were -- was was our, the BOOST
17 Board's, responsibility.

18 Q. Okay. I'm going to enter another exhibit
19 here, sorry while I get that pulled up, and then I
20 will share it with you.

21 (Whereupon, 2018.3.13 Bethel Assurances

1 Letter to Kearns was entered as Exhibit No. 11 by
2 counsel in Exhibit Share.)

3 BY MR. SCHMITT:

4 Q. Okay. All right. Ms. Eberhart, do you
5 see this document? I'll zoom in, too.

6 A. Yes, I see it.

7 Q. Okay. So do you see I've marked it
8 Exhibit -- Exhibit 11 here and it's got a Bates
9 stamp at the top of 0069; is that right?

10 A. Yes.

11 Q. Okay. And this document appears to be a
12 letter. Do you see what -- what it is dated?

13 A. Yes.

14 Q. Okay. So I want to just clarify. So
15 the -- the BOOST Board made a policy that the
16 schools had to adopt affirmative language saying
17 that they weren't going to discriminate on the
18 basis of sexual orientation?

19 MS. SHERIDAN: Objection.

20 THE WITNESS: We never said that. We --
21 we said that the schools could not discriminate

1 based on sexual orientation.

2 BY MR. SCHMITT:

3 Q. And you said earlier -- well, let me --
4 let me just -- let's go into this letter a little
5 bit. Could you -- is it going to let me do it?
6 No, it's not. On the second page, do you see this
7 is signed by Claire Dant, which is Bethel's
8 principal?

9 A. Yes.

10 Q. So do you -- could you start reading
11 where my mouse is right here on the second page?
12 It starts out "Bethel Christian Academy does not
13 ask..."

14 A. "...any questions about sexual
15 orientation at all during the admissions process
16 and is willing to enroll any student who meets the
17 academic criteria and whose past school conduct has
18 not been demonstrably disruptive in any previous
19 school.

20 Once a student is admitted, he/she is
21 expected to comply with behavioral expectations and

1 is subject to disciplinary action for violation of
2 those behavioral standards, including engaging in
3 sexual behavior of any type whether heterosexual or
4 homosexual."

5 Q. Okay. So given this language and what
6 you just told me about the differentiation you were
7 making about student conduct and orientation, why
8 was this assurance that Bethel made to the BOOST
9 Board not sufficient to allow Bethel to continue to
10 participate?

11 A. If you would show me the handbook
12 language of the BOOST -- of Bethel, I can show you
13 where it talks about discrimination and it does not
14 mention sexual orientation.

15 Q. Okay.

16 A. But --

17 Q. Was Bethel required -- I'm sorry. Go
18 ahead.

19 A. But it's not something that the public
20 would see and know that they did not discriminate.

21 Q. Okay. Was Bethel required to add

1 language to their handbook saying they wouldn't
2 discriminate on the basis of sexual orientation?

3 A. We needed to have some assurance that
4 they did not, would not discriminate.

5 Q. And did Bethel sign an assurance saying
6 that they would not?

7 A. That's correct.

8 Q. Okay. But that -- but the BOOST Board
9 apparently did not believe that. Why did you not
10 believe that Bethel would not discriminate?

11 A. They had some -- there -- Bethel was
12 different than the other schools. They -- from
13 what I remember, there was something that -- they
14 had some section about discrimination and that, you
15 know, if you didn't comply with this or this --
16 I -- I don't remember. I need to see that
17 language --

18 Q. Yeah, let -- let me see --

19 A. -- from their handbook --

20 Q. Go ahead.

21 A. -- and then I'll try to show you --

1 Q. Okay.

2 A. -- what I'm talking about.

3 Q. Okay. How about I pull it up. Okay. So
4 do you see this? And -- and looking at it this
5 would be Exhibit 2 I believe. Yeah. So this is
6 Bethel's 2017 to 2018 Parent/Student Handbook,
7 correct?

8 A. Yes.

9 Q. Okay. So I'm going to take you down then
10 to the page that includes Bethel's Admissions
11 Policy and the Statement of Nondiscrimination --

12 A. -- right there. That's it. Statement.
13 So just scroll up a little bit.

14 Q. Okay. So can you --

15 A. -- Statement of Nondiscrimination.

16 Q. Okay. Let -- let me ask my question,
17 please. Could you point out to me on this page
18 where it says that Bethel will not admit a student
19 who identifies as a homosexual?

20 A. Let me --

21 Q. And let me know if you need me to scroll

1 or zoom one way or the other.

2 A. Okay. So in this Statement of
3 Nondiscrimination it says that students of any
4 race, color, national or ethnic origin are -- have
5 the right. So all the other schools would mention
6 sexual discrimination -- I mean -- but Bethel did
7 not. But if you scroll down to -- go down a little
8 bit more.

9 That in that same paragraph of
10 nondiscrimination it said, "It should be noted
11 that..." and then it talks about students are
12 required. So in that section seems to contradict
13 the statement of not -- well, supports the
14 statement of discrimination.

15 Q. Okay.

16 A. And doesn't support the statement of
17 nondiscrimination.

18 Q. Okay. So just to be clear, what portion
19 is -- is creating the conflict?

20 A. The second paragraph.

21 Q. Okay. The second paragraph. And what

1 specifically in the second paragraph?

2 A. The whole second paragraph.

3 Q. Okay.

4 A. And that's in combination that they do
5 not mention sexual orientation in that paragraph
6 either.

7 Q. Okay. So does it -- does it mention
8 homosexuality or sexual orientation in there?

9 A. It does not mention sexual orientation.

10 Q. Okay. So the fact that it doesn't
11 mention sexual orientation anywhere, is that why --
12 is that why you concluded that Bethel discriminates
13 on the basis of sexual orientation?

14 A. I'm sure -- I don't -- I don't remember
15 us -- I just remember there was this section in
16 Bethel compared to all the other schools that we'd
17 reviewed --

18 Q. So what would --

19 A. -- that said they --

20 Q. Sorry. Go ahead.

21 A. -- would not discriminate. And I believe

1 we sent them a letter asking for clarification, if
2 they wanted to make any changes, and they said no.

3 Q. Okay. And if Bethel had made -- if
4 Bethel had included the words sexual orientation in
5 the list of categories that are included up there
6 on the top paragraph of the Statement of
7 Nondiscrimination, would they have been allowed to
8 remain in the program?

9 MS. SHERIDAN: Objection.

10 THE WITNESS: I don't know.

11 BY MR. SCHMITT:

12 Q. Okay. Would you -- would you have
13 determined that they could remain in the program in
14 your own capacity as a BOOST Board member?

15 A. I would have been part of the discussion
16 to listen to everyone else's point of view so I
17 can't tell you yes or no until we had that
18 discussion. My mind would not have been made up.

19 But it would have been the same if they
20 said they did not -- you know, they would admit
21 students of any, you know, ethnic origin, but did

1 not mention race or color. I mean, the Bill
2 language was clear. This is what you could not
3 discriminate against.

4 Q. Okay. So are you aware of the different
5 nondiscrimination provisions that private schools
6 and others who receive government money have to add
7 into their documents to comply with federal law?

8 A. No.

9 Q. Okay. So if -- if you learned that those
10 categories, race, color, national, and ethnic
11 origins were all categories that federal law
12 required to receive grant money, would that have
13 changed your view?

14 A. It's what state -- this is state money,
15 state Bill language, budget language.

16 Q. Okay.

17 A. So it would have been the state language.

18 Q. Did Bethel create its handbook to comply
19 with the BOOST program or did -- do you know?

20 A. I don't know if they had a handbook
21 before or not.

1 Q. And you told me that the BOOST Board did
2 not have a policy that the schools had to -- had to
3 add any language, correct?

4 A. We -- we said that they did not even have
5 to have a handbook, that --

6 Q. Oh.

7 A. Because some schools did not have a
8 handbook.

9 Q. Okay.

10 A. I thought every school had a handbook.
11 As a teacher, we always had a handbook that, you
12 know, we sent home of our expectations that
13 students had homework, you know, etcetera, but I --
14 I was surprised that some schools did not have
15 handbooks and some schools just had information on
16 the website.

17 Q. And let's just say that there's -- well,
18 strike that. If a school didn't have a handbook
19 and they said what was in Exhibit 11 -- so let's go
20 back to that. Okay. So the school doesn't have a
21 handbook and they say that they don't ask questions

1 about sexual orientation in their admissions
2 process and that they're willing to enroll any
3 student who meets the criteria, and they -- once
4 they're admitted, they have to comply with the same
5 behavioral expectations as all the other students,
6 would they have been allowed to continue on in the
7 program?

8 A. If they said they would accept them based
9 on sexual orientation, but Bethel didn't say that.

10 Q. Well, I'd -- I'd refer you to Exhibit 11
11 here where Bethel says that it does not ask
12 questions about sexual orientation at all during
13 the admissions process and is willing to enroll any
14 student who meets the academic criteria, whose past
15 school conduct has not been demonstrably disruptive
16 in previous -- in the previous school.

17 And it also says that the behavioral
18 expectations are the same, including engaging in
19 sexual behavior of any type whether heterosexual or
20 homosexual. So would a school violate the BOOST
21 policies on those grounds?

1 A. But this is not a public document that
2 parents would know about. I mean, I -- I see a
3 difference between this letter and what is public
4 for parents who want to apply to this school to say
5 I -- I know I'm not going to -- my child is not
6 going to be discriminated against.

7 Q. Okay. So in order to stay in the program
8 would Bethel have had to have changed its handbook
9 language?

10 A. Would have to somehow have the parents
11 know that they do not discriminate.

12 Q. Okay.

13 A. I'm not saying it has to be
14 handbook. I'm just saying that, you know, this was
15 an important assurance, that parents knew and that
16 they had --

17 Q. And -- sorry. Go ahead.

18 A. I'm sorry.

19 Q. No. No. No. You're
20 okay. Ms. Eberhart, did anyone communicate to
21 Bethel to your knowledge the policy that they

1 needed to make it clear to parents that they would
2 not discriminate?

3 A. I don't know.

4 Q. Okay. Okay. Give me just a second
5 here. I'm going to pull up a different
6 document. Okay. Sorry about the delay.

7 (Whereupon, Handbook Language of Schools
8 Disqualified from BOOST Program was entered as
9 Exhibit No. 47 by counsel in Exhibit Share.)

10 BY MR. SCHMITT:

11 Q. I'm going to share my screen again and
12 I'm going to bring your attention to a document
13 that I have numbered Exhibit 47. Okay. All
14 right. Do you see this document, Ms. Eberhart?

15 A. Yes.

16 Q. Okay. Great. And you see I've marked it
17 Exhibit 47 at the bottom and it's got a Bates stamp
18 called Bethel Defendants 1788?

19 A. Yes.

20 Q. Great. Have you seen this before?

21 A. I don't remember.

1 Q. Okay. Does it look like something you
2 would have been given before?

3 A. When did this --

4 Q. I'm sorry, I couldn't hear you.

5 A. When was this document produced and...

6 Q. Yeah, that's a good question. I'm not
7 exactly sure.

8 A. And who -- who produced it.

9 Q. Well, it came from your counsel so
10 that -- that would be my question to you actually
11 is whether you ever received something -- either
12 this or something like it.

13 A. I don't know.

14 Q. Okay. You don't know. When -- earlier I
15 think I'd asked if you had ever -- if you reviewed
16 Bethel's entire handbook when you were taking them
17 under consideration. Do you recall that?

18 A. And I -- I don't believe I said I did.

19 Q. Right.

20 A. I didn't include any -- I mean, I -- I
21 mean, some of these handbooks were 30, 40, a

1 hundred pages long.

2 Q. Right. Right. That's
3 understandable. So -- so I guess in -- do you
4 remember getting documents that included handbook
5 language that had been prepared for you by the
6 MSDE?

7 A. Yes, but I don't remember this because it
8 doesn't have a date, it doesn't say who prepared
9 it.

10 Q. Sure. Do you remember receiving
11 documents that looked similar to this?

12 A. I don't know.

13 Q. Okay. All right. That's fine. That's
14 fine. Let's see. Let's go to another
15 exhibit. Okay. Sorry for the delay. With all
16 this Zoom stuff, it's hard to keep all the channels
17 open sometimes. Okay.

18 A. That's why I think having pieces of paper
19 in front you with piles would be easier I think
20 sometimes.

21 Q. Yeah. If you're minded that way, which I

1 am, and you can't see it on my camera, but I have
2 several mountains of paper everywhere.

3 (Whereupon, Bethel Statement to BOOST
4 Board was entered as Exhibit No. 14 by counsel in
5 Exhibit Share.)

6 BY MR. SCHMITT:

7 Q. Okay. So I pulled up another document
8 here. This is titled a Statement To The BOOST
9 Advisory Board By Claire M. Dant On Behalf Of
10 Bethel Christian Academy and it is marked as
11 Exhibit 14 and it is Bates stamped 0072. Does that
12 all look correct?

13 A. I mean, I don't know the exhibit numbers
14 or anything and then you have this is filed 10-31
15 -- I mean -- 19? Is that when we were given this
16 document?

17 Q. No. So this -- yeah. So I'll just tell
18 you. This statement was something you had been
19 given in 2018 by the MSDE. This number here is
20 what's called a Bates stamp, which is something
21 lawyers throw on documents to kind of keep them

1 straight, but the problem is when a document gets
2 used a bunch of times, it has like nine of these
3 markings on it. So for today's purposes, we're
4 going to call it Exhibit 14.

5 But it was filed in this lawsuit with the
6 court on October 31st in 2019. That's what that
7 date is, so that's -- those are all those
8 markings. But you see this statement right here,
9 right, Ms. Eberhart?

10 (Counsel indicating.)

11 A. Perhaps. She -- she -- I don't know if I
12 saw this statement or did she -- she didn't come to
13 a board meeting that I remember. Did she give it
14 to us over the telephone or did she -- it looks
15 like she's saying this.

16 Q. Yeah. This was submitted --

17 A. And what -- and what is the date of this
18 time that she presented this to us?

19 Q. This would have been the summer of 2018,
20 probably the June 4th meeting or maybe June
21 21st. Somewhere in there. But do you recall

1 receiving a statement from Bethel as you were
2 making your decision?

3 A. If it was in June, I was very busy that
4 month so the June 21st meeting of '80 -- I mean, of
5 '18 I wasn't physically at the meeting. I was on
6 the phone sitting in my car on -- on my way to a
7 meeting and I was having -- so that's why -- I
8 mean, that's the only meeting that I did not attend
9 in-person until the pandemic and then I wasn't on
10 the -- on the meeting all the time was the 21st.

11 So I -- I remember that -- that was the
12 only meeting. So that's why I'm hesitant. I'm not
13 sure. Because I think -- I mean, that's why I'm
14 asking you when the date of this was.

15 Q. Right. Okay. That makes sense. But you
16 don't -- you don't recall off the top of your head
17 seeing a statement like this from Bethel?

18 A. No.

19 Q. Okay.

20 A. But that doesn't mean I didn't see it. I
21 mean, we have a meeting with sometimes, you know,

1 30, 40 pages of materials --

2 Q. Okay.

3 A. -- that would be given to us that morning
4 of the meeting.

5 Q. Great. Okay. Let's talk about that
6 meeting. So you -- you do not believe you were at
7 that June 21st, 2018 meeting?

8 A. I -- I remember -- I mean, I know I was
9 not physically there because I know where I was and
10 I know I needed to get the call-in number. So I
11 was sitting in my car with my cell phone calling in
12 and had bad connection problems throughout the
13 meeting.

14 Q. Okay. Let me pull something up. Give me
15 just one second. Where is that at? All
16 right. I'm just going to introduce an exhibit that
17 I'm designating as 35.

18 (Whereupon, 2018.02.21 Bethel Defendants
19 3477 - Summary of decisions outline of three
20 categories, gray area was entered as Exhibit No. 35
21 by counsel in Exhibit Share.)

1 BY MR. SCHMITT:

2 Q. Okay. Let's share this here. Okay. Do
3 you see this document, Ms. Eberhart?

4 A. Could you make it -- I'm having cataract
5 surgery in a month from now so sorry. I -- I
6 just need everything --

7 Q. That's -- that's -- yeah, that's okay.
8 I'm sorry. I try to keep it zoomed out initially
9 to get a big picture of it. Do you see what I've
10 marked Exhibit 35 here?

11 A. Yes.

12 Q. And it's Bethel Defendants 3477.

13 A. Okay.

14 Q. Okay. Okay. Do you see this -- the
15 heading and title at the top and all that?

16 A. Yes.

17 Q. Okay. What is -- do you recognize this
18 document?

19 A. I don't remember it.

20 Q. Okay. Can you tell me what it is?

21 A. It says it's a Summary of Decisions that

1 had been made.

2 Q. Okay. And that's from the February 21st,
3 2018 meeting?

4 A. Yes.

5 Q. Okay. And you think you were at that
6 meeting, right?

7 A. I would think so, yes.

8 Q. Okay. Okay. Do you see in -- under
9 bullet one here where it's talking about school
10 student handbooks and the nondiscrimination
11 requirements?

12 A. Yes.

13 Q. Do you see it's like a sub bullet, it
14 would be 1A, and then one as a lower case Latin
15 numeral so i. It says the school student handbooks
16 fall into one of three categories?

17 A. Yes.

18 Q. Okay. Could you tell me what it says
19 about the third category? I'll highlight the
20 portion here.

21 A. "There's a gray area because the

1 handbooks do not mention admission requirements,
2 but the school may require adherence to religious
3 principles or they may have a statement of -- on
4 homosexuality."

5 Q. Okay. Does this sound like the category
6 of -- category that Bethel was in? Or let me
7 rephrase that. Do you remember if Bethel was in
8 this category of schools?

9 A. I don't remember.

10 Q. Okay. All right.

11 VIDEOGRAPHER: Excuse me, Counsel, but
12 when you reach a breaking point, I need to take a
13 break and change the video, please.

14 MR. SCHMITT: Oh, okay. Do you want to
15 just take one right now? Is that okay with you,
16 Ms. Eberhart?

17 THE WITNESS: That's fine. How long?

18 MR. SCHMITT: What do you think, Brian?

19 VIDEOGRAPHER: I don't need very long so
20 I mean, maybe just enough time for a restroom break
21 and that -- and that would be fine.

1 MR. SCHMITT: Sure. 10-12 minutes? Does
2 that work for everybody?

3 VIDEOGRAPHER: Yup. We're going off the
4 record. The time is 3:13 p.m.

5 (Whereupon, a brief recess was taken.)

6 VIDEOGRAPHER: We're back on the record.
7 The time is 3:30 p.m. This is media number two.

8 BY MR. SCHMITT:

9 Q. Okay. Welcome back. All right. Thank
10 you for your patience, Ms. Eberhart, as I was
11 getting that stuff all pulled up. I am going to
12 show you another exhibit because I want to talk
13 about the -- the day that the Board made its
14 determination on Bethel. So let's see here. Let
15 me share this.

16 (Whereupon, 2018.06.21 BOOST Board
17 Summary of Decisions votes to expel Bethel based on
18 handbook Bethel Defendants 2333 was entered as
19 Exhibit No. 36 by counsel in Exhibit Share.)

20 BY MR. SCHMITT:

21 Q. Okay. Do you see -- and I will zoom in

1 here. Do you see this that I've marked Exhibit 36
2 here?

3 A. Yes.

4 Q. It's Bethel Defendants 2333. Okay. And
5 do you see that this is a Summary of Decisions from
6 the June 21st, 2018 meeting?

7 A. Yes.

8 Q. I'm going to have you identify some
9 things here. So if I go down to bullet point
10 three, do you see that it is talking about schools'
11 student handbooks and the nondiscrimination
12 requirements?

13 A. I see it. Again, I will say I was not
14 physically present at the meeting and I do not
15 remember much because I was on my phone that day so
16 I didn't even have access to -- I don't even think
17 we did videoconferencing in 2018. It wasn't until
18 the pandemic that we started doing this so --

19 Q. Sure.

20 A. -- this document would not have been
21 something I would have seen I don't believe.

1 Q. Okay. Well, my understanding is that
2 this is the type of thing they would have -- MSDE
3 would have produced after the meeting to kind of
4 summarize what had happened. Is that -- have you
5 ever seen those summaries of decisions before?

6 A. Yes.

7 Q. Okay.

8 A. We started with summary of decisions
9 versus minutes because that way it kept us straight
10 as to what we had decided so it was clear moving
11 forward that we had said, you know, X versus Y and
12 Z.

13 Q. Okay. So this document would have been
14 retrospective looking back at the June 21st
15 meeting --

16 A. Yes.

17 Q. -- which you were not physically at; is
18 that correct?

19 A. That's correct.

20 Q. So I just want to ask a couple of quick
21 follow-up questions on that meeting. And I --

1 understanding that you were not there physically,
2 but you were on the phone. Would you have received
3 your BOOST Board packet for that meeting?

4 A. I don't remember.

5 Q. Okay. You don't remember? So if you
6 were on your phone, did you have the documents for
7 that meeting in front of you when --

8 A. No.

9 Q. -- you were on the phone?

10 A. No.

11 Q. No. Okay. Okay.

12 A. Because as I said, I was in my car in
13 between meetings -- yes, I -- the month of June
14 2018 I was very busy.

15 Q. Okay. I'm going to scroll down here
16 under -- right before the subsection B it says,
17 "Also, as of June 21st, 2018 there were two schools
18 still under review as far as compliance with the
19 nondiscrimination requirements: Bethel Christian
20 Academy-Savage and Woodstream Christian
21 Academy-Mitchellsville." Do you see that?

1 A. Yes.

2 Q. And can you -- well, let me ask you: Do
3 you see the next subsection that says subsection B?
4 It says, "The BOOST Board went into closed session
5 at approximately 3:25 p.m. to receive legal advice
6 on the nondiscrimination requirements of the BOOST
7 law." Is that correct?

8 A. That's what it says, yeah.

9 Q. Okay. Do you remember -- as you were
10 calling in on the phone that day, do you remember
11 the Board going into closed session?

12 A. I remember it was supposed to, but I'm --
13 it -- I had difficulty. I do not -- I do not
14 believe I was in the closed session because you
15 needed another telephone number to call into and I
16 was having great difficulty and I had another
17 meeting -- I had some place I had to be at 4:00
18 so...

19 Q. Okay. So you don't -- you -- to your
20 recollection you did not participate in the closed
21 session; is that correct?

1 A. I don't -- I don't remember the closed
2 session at all or -- no, I'm -- I'm blank on that
3 day.

4 Q. Okay. That's understandable.

5 A. I'm sorry. I mean.

6 Q. That's -- that's okay. Do you recall
7 whether the Board had ever gone into a closed
8 session before that point in a different meeting?

9 A. I don't know if it was before or after
10 that. I remember we went into a few closed
11 sessions which would have been recorded in our --
12 you know, everything was taped so it would have
13 been, you know, there. But I don't remember if it
14 was before -- if this was our first closed session
15 or not.

16 Q. Okay. And then subsection C on this
17 Exhibit 36 says, "The BOOST Board came back into
18 open session at 3:55 p.m. and the Boost -- and the
19 Board made these decisions..." Do you see that?

20 A. Yes.

21 Q. Okay. Do you remember whether or not you

1 called back in after the Board got out of closed
2 session?

3 A. No, I am sure I did not.

4 Q. Okay. Do you remember whether or not you
5 voted on Bethel's eligibility?

6 A. After the closed session, since I
7 wasn't -- on the phone, I would not have
8 participated -- I mean, I couldn't have
9 participated.

10 Q. Okay. Okay. I want to ask you about
11 something you said earlier. You were talking
12 about -- I was asking about consensus and how the
13 Board achieved consensus. So if you look at in
14 subsection C here it says -- do you see this
15 portion that says, "...the board unanimously
16 decided that the new handbook complies with
17 nondiscrimination requirements."?

18 A. Yes.

19 Q. It's talking about Grace Academy?

20 A. Mm-hmm.

21 Q. And then do you see right before that it

1 says, "The Board unanimously decided that
2 Broadfording is eligible."?

3 A. Yes.

4 Q. Okay. And then do you see that it says
5 down below, "The Board unanimously decided that
6 Bethel and Woodstream are not eligible."?

7 A. Yes.

8 Q. Okay. But -- and you -- again, just so
9 I'm clear, you don't have any recollection in
10 participating in those decisions?

11 A. No.

12 Q. Okay. So even though it says it's
13 unanimous, that might mean of the participating
14 board members it was unanimous?

15 A. Yes.

16 Q. Okay. Got it. You mentioned earlier
17 that to -- to make unanimous decisions like that
18 and to have consensus you talk and you talk as
19 board members.

20 Did you ever discuss issues regarding
21 handbooks or eligibility or anything like that, the

1 assurances maybe outside the context of a board
2 meeting?

3 A. No.

4 Q. You never had conversations with other
5 board members about any of those BOOST matters when
6 you were not in a meeting?

7 A. No.

8 Q. Okay. Did you ever discuss things with
9 -- issues related to BOOST and the BOOST program
10 with MSDE staff outside of the context of a
11 meeting?

12 A. No.

13 Q. Let see here. Did you ever have
14 conversations about issues with any participating
15 schools or leaders of schools one-on-one or through
16 email or anything like that?

17 A. No.

18 Q. You don't recall?

19 A. I don't remember any. I mean, I -- I
20 was -- I mean, I was active in the meetings, but it
21 wasn't before or after anything. I mean, I -- I

1 just came, did my homework, read what I needed to,
2 expressed my points of view.

3 Q. I'm going to show you another exhibit
4 here, if I can get it to work. Let's see. If I
5 can share that. And I will zoom in on it. It is
6 one I have designated as Exhibit 44. Okay. And
7 I'll zoom in. Hang on one second.

8 (Whereupon, 2018.08.03 Eberhart email
9 Gallagher thanks for talking her through assurance
10 issue was entered as Exhibit No. 44 by counsel in
11 Exhibit Share.)

12 BY MR. SCHMITT:

13 Q. Okay. Do you see this?

14 A. Yes.

15 Q. Okay. Do you recognize what it is?

16 A. Yes, the Community School is a school
17 near me and the person -- the principal of the
18 school called and I said you needed to talk to Matt
19 and Matt said, you know, talk to them and
20 everything worked out.

21 Q. Okay.

1 A. If there was an issue, you know, it's go
2 to MSDE. If that's a problem, go to Matt.

3 Q. Okay. So this is an -- to be clear, this
4 is an email exchange between you and Matt Gallagher
5 about the Community School from August of 2018; is
6 that correct?

7 A. Okay.

8 Q. It is or it is not? Sorry.

9 A. That's what it says it is.

10 Q. Okay. And do you see here that Thomas
11 Culotta -- I'm going to probably butcher that
12 name -- sent an email to you, it would have been
13 earlier that day, to you and Monica Kearns? This
14 would have been August 3rd, 2018; is that correct?

15 A. Yes, and it seems like they needed an
16 extension, which I believe they extended everyone,
17 and there was an issue and I said, you know, check
18 with, you know, Monica or Matt.

19 Q. Okay. Okay. So --

20 A. If that's a conversation, then, yes, I
21 had a conversation.

1 Q. Okay.

2 A. But...

3 Q. So Thomas Culotta or Culotta, who -- do
4 you know who that is? Who is that guy?

5 A. He's the principal of the Community
6 School, which is an alternative school that has
7 about 14 students there that have been kicked out
8 of public schools, and they are now a private
9 community school in Baltimore.

10 Q. Okay. And you know him because that
11 school is near where you live?

12 A. I knew him back -- yes, that -- it's a
13 couple miles. When I was on the State Board of
14 Education, they paid for all the tuition and
15 everything in their school funded by, you know,
16 donations.

17 You know, the parents paid maybe \$25 a
18 month for tuition for these students who just
19 couldn't make it any place else, these 14 kids,
20 high school kids.

21 And he came to me on the State Board --

1 when I was on the State Board and he said, you
2 know, what can I do and -- because he wanted to get
3 them diplomas. It wasn't good enough -- because
4 all his kids grad -- got GEDs and we wanted
5 diplomas.

6 And I said, you know, I -- you know, we
7 have tried at the State Board to have, you know,
8 diplomas given as other options other than a GED
9 and I said why don't you become a full-scale
10 school? And I said there's nothing I could do at
11 the State Board level. It was the only thing I
12 could think of.

13 And -- this was years and years ago.
14 And he said okay and they then went through the
15 process and became certified as a private school.
16 So it wasn't necessarily for money.

17 I mean, it was that, you know, he
18 wanted -- his kids needed a diploma that made more
19 importance for the children when they went to get a
20 job to be able to say here, I have a diploma versus
21 oh, I got my GED.

1 And all of his students were always able
2 to get into a college and pass the basic
3 requirements without taking any remediation
4 courses. So that's where I knew him from when I
5 was a teacher in Baltimore City. So that was, you
6 know, a decade or two ago.

7 Q. So someone you've known a long time?

8 A. Hmm?

9 Q. Someone you knew a long time?

10 A. But not well. You know, it was very
11 specific.

12 Q. Okay. So he had reached out to you on it
13 appears like an issue with the BOOST assurances and
14 thanks to you and Monica and then here up -- up
15 ahead, could you read the email between you and
16 Matt Gallagher for me?

17 A. "It looks like everything worked out.
18 Thanks for talking me through the issue last
19 night."

20 Q. Okay. So --

21 A. I don't remember what the issue was.

1 Q. Okay. Do you remember whether that
2 conversation occurred in the context of a BOOST
3 Board meeting?

4 A. I'm not sure.

5 Q. Okay.

6 A. I -- it could have been. We're both very
7 involved in politics so it could have been over
8 something completely different.

9 Q. Okay. So you might have talked to Matt
10 Gallagher about a BOOST Board issue outside of the
11 context of a meeting, maybe in a political
12 conversation?

13 A. No. I mean, it might have been, you know
14 -- no, I -- I don't remember ever having a
15 conversation with Matt. Maybe he remembers
16 differently.

17 Q. Okay. It's okay if you don't recall --

18 A. Okay.

19 Q. -- but this seems to suggest that you had
20 a conversation with him; is that right?

21 A. That's what it -- it -- it seems

1 like. Of course I -- it says, "Thanks for talking
2 me through this issue."

3 Q. Okay. So -- okay. All right. So --
4 I'll let it go.

5 A. And I don't even remember what the issue
6 was of BOOST assurance form. I don't know if it
7 was the testing or I -- I don't have any clue what
8 I -- what this was about.

9 Q. Okay. If you -- if there was an issue
10 with the BOOST program that you didn't understand,
11 would you reach out to Chairman Gallagher for
12 clarification?

13 A. Not usually.

14 Q. But occasionally?

15 A. I mean, all those -- I mean, those
16 beginning years where we had all the issues of do
17 we do this, do we do this, do we do this, I mean, I
18 didn't even know Matt at that point in time and we
19 never had to my recollection any offline -- I mean,
20 conversations.

21 I mean, on the State Board I would have

1 said oh, yes, I went and had lunch with this board
2 member or did this or did that because it was much
3 more intense. But this, no. I mean, we didn't --
4 I mean, maybe you'll find emails, but I don't
5 remember anything specific.

6 Q. Do -- do you recall ever receiving or
7 sending emails to other BOOST Board members to work
8 on issues related to BOOST?

9 A. I mean, on the State Board, I mean, we
10 were pounded, I mean, into us that we do not do
11 reply to all; I mean, that all the open meeting
12 clause that, you know, we -- we do not have
13 conversations through emails to make decisions;
14 let's wait until we have a meeting and talk about
15 it. So that's what we would do.

16 Q. Okay. And -- and you're talking about
17 your time on the State Board, right?

18 A. Yes.

19 Q. Let me get rid of that. Let's see. What
20 else. Hmm. Hmm. Hmm. Hmm. Lots of emails
21 today.

1 (Whereupon, 2021.01.12 List of BOOST
2 Assurances from each year of the program was
3 entered as Exhibit No. 46 by counsel in Exhibit
4 Share.)

5 BY MR. SCHMITT:

6 Q. Okay. I'm going to show you another
7 exhibit that I have marked -- and I'll zoom in
8 here -- Exhibit 46 and it's got a Bates stamp of
9 Bethel Defendants 1820. Do you see that?

10 A. Yes.

11 Q. Okay. And it says Fiscal Year 2017 -
12 Senate Bill 190, Fiscal Year 2018 - House Bill 150
13 next, and then it says Fiscal Year 2019 - Senate
14 Bill 178. And then, Fiscal Year 2020 - House Bill
15 100. Do you see those paragraphs?

16 A. Yes.

17 Q. Okay. Do you recognize the language in
18 this document?

19 A. Give me some con -- no. I mean --

20 Q. No?

21 A. -- is this something we were given? Is

1 this something that I should have -- I mean, I'm
2 sorry, I don't know what this is.

3 Q. Okay. Well, why don't you go ahead and
4 read how it says subsection D here and go ahead and
5 just take a minute and kind of read and get
6 familiar with it, and then we'll talk about it.

7 A. Well, can you, I mean, tell me where --
8 what -- where is this from? I don't -- I mean,
9 Senate bill 190. I don't know what Senate Bill
10 190, Chapter One -- I mean --

11 Q. Right. Yeah, I understand. So earlier
12 on, in fact, probably one of the first exhibits we
13 looked at, was a copy of House Bill 150 from fiscal
14 year 2018.

15 A. Okay.

16 Q. So this is BOOST Budget Bill language
17 from each particular year.

18 A. Okay.

19 Q. I just want to let you get familiar with
20 it before I ask questions about it.

21 A. Okay. So it says we don't discriminate

1 based on -- I mean, so that's D. Must agree that
2 they do not discriminate. They don't comply.
3 Then, they have to reimburse all scholarship
4 money. They may not charge tuition and
5 fees. Okay. I mean, that's sort of is a summary
6 of what 16 said, right?

7 Q. Right.

8 A. Then, go to 18. And usually we would
9 get, you know -- okay. This is now how things have
10 changed from one to another. Not
11 discriminate. They don't require any -- adopt any
12 rule, regulation that conflicts with its religious
13 or moral teachings and we did not do that because,
14 you know, all participants must agree not to
15 discriminate. Scholarship, same
16 thing. Fees. Okay. What are you trying to get me
17 -- okay. Just to familiarize myself?

18 Q. Yeah. Yeah. Yeah. Yeah. The law
19 changed from the early years on to the later years
20 so I wanted to ask you some questions about --
21 because you're still on the BOOST Board -- about

1 the laws that is now compared to what it was.

2 So you remember earlier we talked about
3 this language from House Bill 150 that required
4 that schools shall not discriminate in student
5 admissions, among other reasons, on the basis of
6 sexual orientation.

7 So I want to scroll down into fiscal year
8 '20, okay, and you'll see some markups here that
9 are changes in the -- in the law, okay.

10 So it says that -- do you recognize --
11 well, let -- I'll just have you read subparagraph D
12 here and I'll go ahead and highlight this portion.

13 Just go ahead and -- and familiar --
14 familiarize yourself with that and we'll -- I'll
15 ask some questions.

16 A. Okay. It's not discriminating,
17 "retention, or expulsion, or otherwise discriminate
18 against any student based on sexual orientation or
19 gender identity and expression," which was new
20 compared to the years before.

21 Q. Okay. When that law changed -- because

1 we know the BOOST Board was trying to work to
2 implement the policy of the legislature from the
3 law. When the law changed, what did the BOOST
4 Board do as far as ensuring compliance from BOOST
5 schools?

6 A. In 2020?

7 Q. Yeah, for fiscal year 2020.

8 A. I don't know that we did anything
9 different.

10 Q. Okay. Did the BOOST Board change the
11 assurances that the school signed?

12 A. I would assume they did because the
13 language -- the Bill language changed.

14 Q. Okay. Did the --

15 A. But I -- I don't know.

16 Q. Okay.

17 A. I did not read the assurances.

18 Q. Okay. Did the BOOST Board or the MSDE
19 review any school handbooks to ensure compliance
20 with the change in the law?

21 A. I don't believe we did, but I don't

1 remember. We had very few meetings. We were more
2 focused on making sure all the money was given out
3 to students to get as many people participating as
4 possible and not to have to turn back money into
5 the State as we had been doing every year. So that
6 was our main focus of how could we make decisions
7 more quickly, how could we help families get the
8 scholarship money that they deserved.

9 Q. Okay. How would a school violate the
10 policy that they couldn't discriminate on the basis
11 of gender identity or expression?

12 A. I don't ever remember that coming up as a
13 discussion. Maybe it did, but it -- I -- you would
14 think I would remember something that's more recent
15 than something back, but when we had more
16 discussion, I guess I remember more of that than
17 just, you know, something that was put in a law. I
18 don't -- I don't remember if we ever discussed it.

19 Q. Okay. Let's take a look here. What else
20 do I have? And I'm going to try to wrap up to get
21 you out of here, Ms. Eberhart.

1 A. Okay.

2 Q. Oh, where is that at. Give me one
3 second. Ha. Okay. I forgot about that. So
4 when -- one of the things I'd -- I'd like to ask
5 about is conversations that you may have had with
6 anybody about these issues, and in particular --
7 let's see here. I'm trying to get this thing
8 introduced and it's not cooperating.

9 So do you remember having any
10 conversations about the handbook review and the
11 nondiscrimination issue with anybody not on the
12 BOOST Board or not on the MSDE staff?

13 A. In my life I don't --

14 Q. You don't recall?

15 A. I don't -- I mean, I cannot -- I mean, I
16 could have in a social setting said something to
17 someone that there is a handbook, you know.
18 Someone might have asked me about sexual
19 orientation and I -- you know, because there was
20 something in the paper maybe about what we were
21 doing -- because people didn't even know I was on

1 the BOOST Board -- and I might have said, you know,
2 we're doing a handbook review, you know, about
3 sexual orientation because of the PTA coming to
4 us. I don't remember anyone just having a sit down
5 discussion about sexual orientation and handbook
6 review.

7 Q. Okay. You -- you mentioned earlier that
8 you and Mr. Gallagher are both involved in
9 politics. Do you remember having any kind of
10 conversation with anyone from the Governor's Office
11 or the Senate President's Office or the Speaker's
12 Office about these issues?

13 A. No. I'm sure that Delegate McIntosh and
14 I might have had issues. I mean, she -- after the
15 riots in '15, the House -- she's chair of the
16 Appropriations Committee. The House had always
17 vetoed or not approved this legislation. They
18 didn't veto it. It would come from the Senate and
19 they didn't approve it.

20 After the riots, Speaker Bush wanted to
21 pass something, not necessarily what Hogan wanted,

1 and Delegate McIntosh and the Speaker came up with
2 this idea of the BOOST Board.

3 So we talked about it in the beginning.
4 I believe, you know, we went to -- a number of us
5 went to New York to see a play so -- I mean, so I'm
6 sure it came up in discussions just about the
7 existence of it and why they wanted to have such a
8 BOOST Board and the importance of it, to give all
9 students more options of where they went to school.

10 Q. Okay.

11 A. But that's the only person specifically
12 that I would have had conversations. There's no
13 one else in the legislature that I, you know,
14 talked to on a regular basis. I might help them
15 get elected, but then it's -- they do, you know,
16 whatever they want in the legislature. I'm not
17 there to, you know, lobby or whatever.

18 I got involved in politics back in '75 to
19 get more elected officials who cared about
20 education, who wanted to support education, and
21 that's why, you know, Maggie got involved in

1 politics. And I helped with her campaigns
2 throughout the past years, even the campaigns that
3 she didn't run where she managed someone else's
4 campaign so -- but not conversations about this.

5 Q. Okay.

6 A. Except with Maggie usually.

7 Q. Do you remember with Delegate McIntosh
8 ever exchanging emails on -- on the BOOST program?

9 A. I don't think so. I mean, she -- no. We
10 might have. I just know -- I did when I was on the
11 State Board because there was things that she, you
12 know, would try to get into legislation, but this,
13 I don't ever -- it could have, but I don't remember
14 any emails or texts. It usually was in a social
15 gathering when we would talk.

16 Q. Okay. Do you remember ever talking to
17 anybody in the media about the -- any of the BOOST
18 issues or the controversy with the handbooks?

19 A. I really don't. We -- you know, at the
20 State Board, it was -- you know, we didn't talk to
21 the media. We just had our president of the Board

1 would be the spokesperson from the Board unless
2 they gave us -- you know, said to do it. And that
3 was always Matt. You know, that seemed to carry
4 through to, you know, to just how it is. Now, I
5 don't remember talking to anyone, but --

6 Q. So --

7 A. -- that's not to mean I didn't. I might
8 have been quoted, but I don't remember.

9 Q. And just to be clear, when you say Matt,
10 are you talking about Matt Gallagher --

11 A. Yeah. Yes.

12 Q. -- with respect to the BOOST Board?

13 A. Yes.

14 Q. Okay. Got it. So you think Matt
15 Gallagher might have talked to the media. Anybody
16 else?

17 A. I don't think so. I mean, I don't think
18 Dr. Grasmick, who was on the Board, who, you know,
19 is a very public figure, I don't remember that she
20 was ever quoted or talked to.

21 I -- I don't even remember that the --

1 the media even played up much about the BOOST until
2 this issue came up, not that, you know, we were
3 awarded, you know, thousands of scholarships to
4 students that -- from low -- poor -- I mean, you
5 know, free and reduced lunch students. So no, I
6 don't know. I'm sorry.

7 Q. Why did the BOOST Board feel that it was
8 necessary to converse with the media about the
9 controversy with the student handbooks?

10 MS. SHERIDAN: Objection.

11 MR. SCHMITT: You can answer.

12 THE WITNESS: I don't know.

13 BY MR. SCHMITT:

14 Q. Okay. I'm going to show you another
15 document that I have marked Exhibit 48. Let's see
16 here. Yes. Okay. And I'll zoom in.

17 (Whereupon, 2019.07.17 Eberhart suggests
18 that Gallagher works to influence media coverage of
19 Bethel case was entered as Exhibit No. 48 by
20 counsel in Exhibit Share.)

21 BY MR. SCHMITT:

1 Q. Okay. So if you see here, I've got a
2 mark on Exhibit 48. It's got the Bates stamp
3 Bethel-Gallagher 0316. Okay. Take a second to
4 look at that. Okay. Do you recognize this email,
5 Ms. Eberhart?

6 A. No.

7 Q. Do you see down below it says that on
8 July 27, 2019 Linda Eberhart wrote -- and it would
9 be linda.eberhart45@gmail.com. There's a link, a
10 hyperlink, to a Baltimore Sun article and it says,
11 "Matt, it looks like you have been working behind
12 the scenes to get this editorial printed. It says
13 everything that is needed to be said. Thanks." Is
14 that correct?

15 A. Yes.

16 Q. Is linda.eberhart45@gmail.com your email
17 address?

18 A. Yes.

19 Q. Okay. Do you recall sending this email?

20 A. Obviously I did. When I read the
21 article, obviously I didn't know anything about it

1 and it was such a positive article that I figured
2 the only way the editorial board prints anything
3 positive is because someone is there talking to
4 them.

5 Q. Okay. Do you know who Andy Green is?

6 A. He was the -- he was head of the
7 editorial board. I don't know him personally.

8 Q. Okay. You make comment down below that
9 this article "says everything that is needed to be
10 said." What did you mean by that?

11 A. That it said what -- whatever positions
12 that we -- the BOOST Board made, it was reinforcing
13 those positions.

14 Q. And why did the BOOST Board find it
15 necessary to reach out to Andy Green on the
16 editorial board?

17 A. I don't know. Had there been an article
18 about it? Were there people who were saying that
19 the BOOST -- or the scholarship money should go
20 away? I -- I don't remember.

21 Q. Okay.

1 A. Summer of '19. It seems so long
2 ago. There were no elections that summer. That
3 was good. There must have been something negative
4 maybe on the radio. I don't -- I don't remember.

5 Q. Okay. Was the BOOST Board getting -- do
6 you remember if the BOOST Board got negative media
7 coverage because it expelled Bethel and other
8 schools from the program?

9 A. I don't remember. I just know -- I don't
10 even remember where I was hearing that the BOOST
11 Board might, you know, this -- the whole program
12 might disappear if there was still discrimination.

13 Q. Okay.

14 A. I don't remember.

15 Q. Do you remember ever having a
16 conversation with anyone else like maybe someone
17 from that ACLU or another organization about the
18 discrimination, alleged discrimination, in the
19 BOOST program?

20 A. I mean, I know people on the ACLU who
21 were very concerned that I would, you know, see at

1 social events. The ACLU and the teachers didn't
2 seem to be in the loop of when our meetings were so
3 I would, as I did when I was on the State Board,
4 just send them copies of whatever just routinely of
5 here's when the meeting is and here's the agenda so
6 that they would know that there was a meeting.

7 Q. Do you recall who expressed concern from
8 the ACLU?

9 A. I don't remember who the -- there were --
10 I don't remember the people's name. There was
11 several -- after Bebe Verdery retired, I don't know
12 who they were.

13 I worked with the ACLU -- I volunteered
14 for the ACLU after I retired to get the additional
15 funding for schools in Baltimore City. In 2012 is
16 when I got to know folks at the ACLU who were
17 working on education issues.

18 Q. Do you still volunteer with the ACLU?

19 A. No.

20 Q. When did you stop volunteering with the
21 ACLU?

1 A. After the bill passed that April I think
2 12th that we were successful in getting a billion
3 dollars to repair our schools in the city.

4 Q. You mentioned that people from the ACLU
5 were concerned about discrimination in the BOOST
6 program, can you tell me what you recall about
7 those conversations?

8 A. They mentioned the handbook review and
9 what were we doing about it.

10 Q. Okay. What did you tell them?

11 A. I said we would be reviewing the
12 handbooks and coming up with a decision.

13 Q. Okay. So just so I'm clear, whoever it
14 was at the ACLU encouraged you or ask -- or
15 suggested that the BOOST Board should review school
16 handbooks?

17 A. That we should not discriminate. I mean,
18 schools should not -- if they're talking public
19 money, they should not discriminate based on all
20 these various conditions.

21 Q. Okay. Did you relay these concerns to

1 any other BOOST Board members?

2 A. No. I mean, the ACLU and the State
3 Teachers Association would usually come to every
4 meeting. And at the -- during the meeting there
5 was always time for public comment.

6 Q. Now, when you say the State Teachers
7 Association, that's a separate entity from the
8 Maryland Parent Teachers Association?

9 A. The MSTA, the Maryland State Teachers
10 Association, is different than the -- the -- who
11 started the handbook review which are the parents.

12 Q. Right.

13 A. So I was -- when I was a teacher, I was
14 the Vice President of the Baltimore Teachers Union
15 for two years.

16 Q. And the State Teachers Association -- so
17 my -- as I had mentioned earlier, my parents were
18 in education, first in public -- in public schools
19 and ultimately private school. So I -- I am
20 thinking about this in the context of what I know
21 in Illinois.

1 So the Maryland State Teachers
2 Association, the membership, are they primarily
3 public school employees?

4 A. I don't know because the Baltimore
5 Teachers Association is not part of the Maryland
6 State Teachers Association. We're affiliated with
7 the AFL -- the AFT, American Federation of
8 Teachers. The Maryland State Teachers Association
9 is affiliated with the NEA, the National Education
10 Association.

11 Q. Oh, okay.

12 A. So two big umbrella groups.

13 Q. Right.

14 A. Baltimore City teachers were never part
15 of the state teachers so my 42 years in education I
16 was not -- I didn't even now MSTA existed. It was
17 only when I got on the State Board of Education
18 that they were very active with the state -- with
19 the State Board of Education because there was so
20 many academic issues that they were concerned
21 about.

1 Q. Okay. And so for the Baltimore Teachers
2 Association that you were a member of, was that
3 primarily public school teachers?

4 A. Yes, it was.

5 Q. Okay. Were there any private school
6 teacher membership in that organization?

7 A. No. They were the -- I mean, they were
8 the union. I mean, I don't know that any of the
9 private schools have a union.

10 Q. Right.

11 A. So they negotiated the union
12 contract. Now, we have public charter schools in
13 Baltimore City which are part of, you know, the
14 Baltimore Teachers Union, but they're still public
15 schools.

16 Q. Right. And they wouldn't be
17 participating in BOOST then?

18 A. No, they get funded through the regular
19 school system.

20 Q. So just -- and I'm sorry, I'm just making
21 sure I've got this clear. So the Maryland State

1 Teachers Association would then also be a different
2 union?

3 A. Yes.

4 Q. Okay. Got it. Okay. So they would come
5 to the meetings. The ACLU would come to the
6 meetings. What other organizations would you hear
7 from or interact with in that way?

8 A. There were -- the Jewish day schools.
9 There was usually a Rabbi there who represented the
10 Jewish day schools. There would be someone from
11 the Arch -- the Catholic schools. Sometimes two
12 people; someone from the Washington region, which
13 would have been Montgomery County, Prince George's
14 County, as well as the whole Baltimore
15 region. Then, we had several parents who would
16 come on a regular basis.

17 Q. So outside of the ACLU and maybe some of
18 the unions, do you remember having any
19 conversations with anybody about the handbook
20 issues and the -- and the alleged discrimination in
21 the BOOST program, any other organizations or

1 individuals representing organizations?

2 A. I don't think so, but I don't -- nothing
3 comes to my mind.

4 Q. Okay. Okay.

5 A. Is there someone that you -- I mean, if
6 there's some group that you know of, that you want
7 to, you know --

8 Q. No. No. No.

9 A. -- about -- I mean, I'm just going
10 through. I mean, I was the Maryland Teacher of
11 Year in 2002 so I've kept in touch with, you know,
12 some teachers of the year in Baltimore City and I
13 mean, so there's all these different groups that,
14 you know, I have been involved with, but they're
15 not really groups. They're just groups of
16 teachers.

17 I mean, after I was the Maryland Teacher
18 of the Year, I set up a group called Math Works
19 where we had, you know, 350 teachers in Baltimore
20 City coming to our school and we would talk about
21 math. I mean, it -- so but this was all before,

1 you know, I retired.

2 But there were -- you know, we would, you
3 know, be here in my house writing curriculum, doing
4 all kinds of other things, and then after I
5 retired, you know, I still kept in touch with lots
6 of the teachers and educators, but they were not
7 associated with an organized group of people.

8 Q. Okay.

9 A. So that's why I'm just thinking of, you
10 know, all the conversations that I might have had
11 on my deck with groups of people who were here. I
12 mean, my deck was like the place to have a party.
13 So when someone would retire, it would be okay,
14 let's go to Linda's deck. You know, she's retired.
15 She can have a party. I mean, so... But I don't
16 think that's who you're talking about. But I'm
17 just trying to, you know --

18 Q. No. I -- I appreciate you being
19 forthright about it.

20 A. You know, there was no intention of, you
21 know, sitting down with this person saying let's

1 talk about this, what should I do, what should, you
2 know, the Board -- the BOOST Board do or what
3 should this be or what should that be.

4 Q. Right. Okay. Got it. No, that's
5 helpful. Thank you.

6 A. I can say that I did sit down with
7 someone from the Jewish day schools who wanted us
8 to increase the scholarship money by a thousand
9 dollars for high school students. I can also say,
10 you know, I've talked to someone in the Catholic
11 schools about they wanted us to increase the
12 scholarship money for high school students. So I
13 remember very specific conversations about that,
14 but not about handbooks or any of this. I'm sorry.

15 Q. Well, let me -- that's -- that's -- let
16 me ask a specific question about that because you
17 bring up a point I had kind of forgotten about. So
18 the Maryland Catholic Conference or a
19 representative from the Arch -- one of the
20 different Archdiocese or someone representing the
21 Jewish schools, would they have raised any issues

1 to you about either the nondiscrimination language
2 in the BOOST law or the assurances or maybe
3 proposed language for the BOOST law at any point?

4 A. No, they never did. They never
5 did. That never came up. It was always about the
6 amount of money and who and how and how
7 much. Sometimes it would be about testing or
8 accountability, but that wasn't even a big issue
9 that was ever raised.

10 It was more about -- and the only -- I
11 guess it was the most recent thing was the --
12 raising the amount of money high school students
13 got and we decided yeah. No, never remembering a
14 conversation --

15 Q. Okay.

16 A. -- about discrimination with any of them.

17 Q. Okay. I want to ask you just a couple of
18 quick questions about MS -- your relationship with
19 the MSDE. So how much do you know about how the
20 MSDE conducted or conducts its operations with
21 respect to BOOST?

1 A. It's very little.

2 Q. Okay. So you -- you knew Monica Kearns
3 when she was working at the MSDE?

4 A. Yes, she was the first person I believe
5 and Donna then took her place.

6 Q. Okay. What were their roles?

7 A. They implemented what the BOOST Board
8 said so it was their responsibility to make sure
9 that everyone that applied were vetted properly,
10 met the criteria, met the assurances, got the
11 checks hopefully before the students graduated from
12 school.

13 I mean, we were always pushing that the
14 parents in the school would get the money as
15 quickly as possible and that all the money would be
16 spent instead of going back, but then once the
17 State agreed that we would be able to carry over
18 the money from one year to the next, that wasn't
19 necessarily as critical for using the money.

20 Q. Sure. What about --

21 A. But so yeah -- so they had people who

1 worked for them to, you know, make sure that there
2 was a data system that, you know, parents could put
3 in their, you know, income and their school and
4 where they came from, and what their grade is. And
5 then we had special ed requirements, that they get
6 special ed services. So they did all those
7 logistics.

8 Q. Great. And then do you know -- do you
9 know many of the staff members who work for Monica
10 or who do work for Donna Gunning?

11 A. No.

12 Q. Okay. So you're not really familiar with
13 them?

14 A. Only the few that came to the meetings,
15 but yeah, the meetings, they rarely spoke. There
16 was Jim someone who retired and then came back and
17 did this, you know, during this period of
18 time. No, I really don't.

19 Q. Okay. That's -- no, that's fine if you
20 don't know. I'm just -- I'm just trying to get
21 a -- a gauge on how involved you were with -- with

1 their operations.

2 A. Yeah. I -- I knew much more at the State
3 Board because we had, you know, committees that
4 would meet with, you know, the science folks or
5 this group or that group, but no, you know --

6 Q. Okay.

7 A. It didn't really -- I mean, I remember
8 that first summer -- and I'm probably talking too
9 much, but we had thousands of people who were
10 trying to get into the system and I said okay,
11 well, we could have the whole Board just volunteer
12 and we'll go down and help you, you know, on the
13 weekend or whatever. And they looked at me like I
14 had lost my mind. You really want to come in and
15 help us do our work?

16 And it was the first year and we were
17 trying between July and the beginning of September
18 to let all -- everyone know if they got a
19 scholarship because it would matter where they went
20 to school. So no, they really -- we had, you know,
21 just very little interaction.

1 Q. Okay. I want to show you one more thing
2 that I just remembered that I forgot to do
3 earlier. Let's see. Where did that go. So I'm
4 going to pull Exhibit 34 back up. And we went over
5 this earlier, but I don't think you recalled
6 receiving a copy of it ever.

7 A. Well, you know, as I said, we get lots of
8 stuff so I'm sure, but I don't remember it.

9 Q. Okay. I'm just going to ask a couple
10 questions that you can deduce from looking at
11 it. Okay. So on Exhibit 34. On the top, do you
12 see it says BOOST Schools with Handbooks that Do
13 Not Comply with the BOOST Nondiscrimination
14 Requirements?

15 A. Yes.

16 Q. Okay. Could you do me a favor, would you
17 please look at this list of the nine schools there
18 and just take a moment to kind of look and think
19 about them and see if you recognize them.

20 A. Recognize them in discussion? Recognize
21 them that I've been there? No. No.

1 Q. Yeah. Do the names look familiar? Do
2 you -- can you kind of deduce what they are, where
3 they're at based on what you see there?

4 A. They're not in Baltimore City, but --

5 Q. Sure.

6 A. -- or Baltimore County. And I did not --
7 you know, as -- when I was on the State Board, I
8 visited lots of schools. On the BOOST Board we
9 didn't go out to any of the schools to see, you
10 know, any of the students that were participating
11 in the program or anything like that.

12 Q. Okay. Have you gone through all those
13 schools?

14 A. Yes.

15 Q. Now, I'm going to go down here. It says,
16 "BOOST Schools in Handbook Category 3" on the legal
17 advice memo, okay, and can you go ahead and take a
18 look at all those schools just like you did before.

19 A. Mm-hmm. And I remember the Cathedral
20 Christian Academy that I had never heard of before
21 and they had 61 students receiving a lot of money

1 so I looked on their website who they were and I
2 still didn't know anything about them.

3 Q. Okay. Have you -- have you looked
4 through all of those?

5 A. Yeah.

6 Q. Okay. So you see there are 11 schools
7 here that got flagged and put into category three,
8 which was the gray area, and then you've got these
9 nine schools here that were found to be not in
10 compliance. So that's about 20 schools, right --

11 A. Okay.

12 Q. -- total? Do you recognize anything that
13 all 20 schools have in common?

14 A. No.

15 Q. Do you -- do -- based on reviewing the
16 names of those schools, do any of those schools
17 appear to be secular private schools? And if you
18 need to scroll, I can do that.

19 A. I don't know your definition of private
20 school. A private school is anything but a public
21 school.

1 Q. Right. Right. Is it safe to say that
2 looking at this list of -- these two lists of
3 schools that every one of them has an apparent
4 religious affiliation?

5 A. I mean, Highland View Academy, I mean,
6 that could easily be a public charter school some
7 place. Takoma Academy? No.

8 Q. Okay. Do you remember reviewing the
9 handbook language of any secular or nonreligious
10 schools?

11 A. That never even came to my mind. It
12 really didn't. This wasn't about religion. It was
13 about sexual orientation.

14 Q. Okay. Okay. So let's see if I've got
15 anything else. I think we're about done.
16 Okay. So you -- you had mentioned at the very
17 beginning that you had some notes with you
18 today. Did you -- have you reviewed those notes at
19 all while we've been going through questions?

20 A. I've looked and, you know, it was fair,
21 consistent, not targeting religion, orientation

1 behavior.

2 Q. Okay. And where did you get those notes?

3 A. From my -- I mean, they are words. Like
4 a school teacher, I -- you know, I don't have full
5 -- I just jot down what I want my kids to come away
6 with and what did I want you to come away, whatever
7 your questions were, was that we tried to be fair
8 and consistent in what -- our deliberations were
9 always public; we always talked through everything;
10 and that we all, you know, wanted, you know, to
11 include as many students as possible in the program
12 and make it consistent across all the nonpublic
13 schools that were -- wanted to be part of the
14 program.

15 Q. Okay. How many pages of notes are there?

16 A. They're a couple words.

17 Q. Just a couple words on one page?

18 A. Yeah.

19 Q. Okay. When did you make that document?

20 Did you make that document or when did you come up
21 with that?

1 A. It was last night when I was thinking oh,
2 my, what am I going to -- like, you know, what am I
3 going to say? What are you going to possibly ask
4 me? Never thinking we would be at this for three
5 hours. I thought it would be a 15-minute question
6 and answer kind of period.

7 So as I sat down like I would in, you
8 know, any lesson, it could be, okay, what is it
9 that I really need to try to get through.

10 Q. Okay. Okay. Can you read -- can you
11 read the words on your notepad to me?

12 A. Orientation, behavior. They were -- they
13 were the two things that just kept coming up in my
14 mind as a thought about our discussions. And then
15 as a Board, we were fair, we wanted to be fair and
16 consistent with all groups, and that we were not
17 targeting anyone because of religious beliefs,
18 because we weren't.

19 Q. Okay. Outside of your attorneys, did you
20 talk to anybody in preparation for this deposition
21 or ahead of this deposition?

1 A. No. Maybe I should have to make it
2 shorter. My problem is I probably talk too much,
3 but no, I -- I didn't. I didn't even talk to
4 Maggie about it.

5 Q. Okay. So -- and you haven't talked to
6 anybody, other board members or anything else about
7 this process?

8 A. No, I haven't and we haven't even had a
9 meeting yet to talk about what we're doing for this
10 year --

11 Q. Sure.

12 A. -- since everything has been extended
13 until whenever the next -- the May 15th filing
14 deadline. So we've given everyone until the end of
15 May to apply.

16 MR. SCHMITT: Okay. Okay. Well, I think
17 I'm done. I don't know if -- if Ms. Sheridan has
18 got any follow-ups or anything else for you, but I
19 think that concludes my -- the stuff that I wanted
20 to address today.

21 THE WITNESS: Okay.

1 MS. SHERIDAN: I have no questions.

2 THE WITNESS: Okay.

3 MR. SCHMITT: Ms. Eberhart, I want to
4 thank you very much for your time. I know this has
5 gone on longer than you had anticipated and I'm
6 sorry about that.

7 THE WITNESS: That's all right. My puppy
8 has been really good. She hasn't needed to go out
9 so we've been good.

10 MR. SCHMITT: Very well behaved. I
11 appreciate you making yourself available. And I
12 know you said you have cataract surgery coming up.
13 I hope that goes well and there's no issues and I
14 hope you have a speedy recover.

15 THE WITNESS: Yeah. I waited until I was
16 vaccinated so then I saw my surgeon so... I should
17 have done it two years ago, but yes. So it should
18 be okay.

19 That's why I wanted to get this done
20 early so it wouldn't, you know, interfere with
21 anything in May that you needed me to do. So

1 there's nothing else you need from me, correct?

2 MR. SCHMITT: At this time -- I think at
3 this time we're okay.

4 THE WITNESS: Okay.

5 VIDEOGRAPHER: Okay.

6 MR. SCHMITT: All right.

7 VIDEOGRAPHER: This marks the end of the
8 deposition. We're going off the record. The time
9 is 4:40 p.m.

10 (Whereupon, having not waived reading and
11 signing, the videotaped examination of LINDA
12 EBERHART concluded at 4:40 p.m.)

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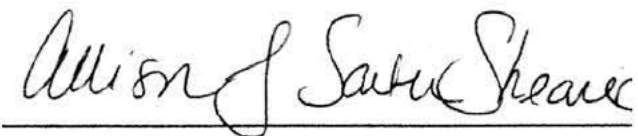
21

1 STATE OF MARYLAND)
2 COUNTY OF BALTIMORE) SS

3 I, Allison L. Shearer, a Notary Public of
4 the State of Maryland, do hereby certify that the
5 within named Deponent, personally appeared before
6 me at the time and place herein set out, and after
7 having been duly sworn remotely by me, was
8 interrogated by counsel.

9 I further certify that the examination
10 was recorded stenographically by me via Zoom and
11 that this transcript is a true record of the
12 proceedings.

13 I further certify that I am not of
14 counsel to any of the parties, nor an employee of
15 counsel, nor related to any of the parties, nor in
16 any way interested in the outcome of this action.
17 as witness my hand and notarial seal this 22nd day
18 of April, 2021.

19 
20

Allison L. Shearer, Notary Public
21 My Commission Expires March 18, 2022

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate.

The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

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EXHIBIT 10

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
NORTHERN DIVISION

BETHEL MINISTRIES, INC., *
Plaintiff, * Case No.
vs. * 1:19-cv-01853-SAG
DR. KAREN B. SALMON, *
et al., *
Defendants *

* * * * *

Videotaped remote deposition of BETH
HARBINSON, was taken on Monday, April 18, 2021,
commencing at 9:33 a.m., at 9055 Meadowvale Court,
Ellicott City, Maryland 21042, before Allison L.
Shearer, RPR, a Notary Public.

Reported By: Allison L. Shearer, RPR

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EXAMINATION INDEX

BETH HARBINSON

BY MR. SCHMITT

6

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Exhibit 50 2018.07.05 Harbinson-Gallagher email 108
thread on issues with Cathedral
scholarships

NOTE: All exhibits maintained in Veritext
Exhibit Share.

1 VIDEOGRAPHER: We're going on the record
2 at 9:33 a.m. on April 19, 2021. This is media unit
3 one in the deposition of Beth Harbinson in the
4 matter of Bethel Ministries, Incorporated versus
5 Dr. Karen B. Salmon, et -- excuse me -- et al. in
6 the United States District Court for the District
7 of Maryland, Northern Division. Case number
8 1:19-cv-01853-SAG.

9 My name is Brian Mackey from Veritext and
10 I'm the videographer. The court reporter today is
11 Allison Shearer from Veritext. Would counsel
12 please state their appearances and affiliations for
13 the record.

14 MR. SCHMITT: Sure. Paul Schmitt on
15 behalf of the plaintiff.

16 MR. SCOTT: This is Robert Scott on
17 behalf of the defendants and the witness and with
18 me today is Justin Fine who will be observing, but
19 not -- of my office. But he will be observing, but
20 not participating.

21 MR. TUCKER: And this is Ryan Tucker on

1 behalf of the Plaintiff. I'll be observing as
2 well.

3 VIDEOGRAPHER: Will the reporter please
4 swear in the witness.

5 BETH HARBINSON,
6 the Deponent, called for examination by the
7 Plaintiff, being first duly sworn remotely to tell
8 the truth, the whole truth, and nothing but the
9 truth, testified as follows:

10 EXAMINATION

11 BY MR. SCHMITT:

12 Q. Okay. Good morning. Thank you, ma'am,
13 for making yourself available today. Just as a
14 starting thing, is there a way that you would
15 prefer that I address you? Do you prefer
16 Mrs. Harbinson, Ms. Harbinson, Ms. Sandbower-
17 Harbinson, something among those things? You
18 can --

19 A. My first --

20 Q. -- call me Paul. Oh, go ahead.

21 A. My first name is fine. Thank you.

1 Q. Beth. Okay. Great. And you can call me
2 Paul. I'll also answer to like hey, you and, you
3 know, anything like that. So I think we're good
4 that way.

5 Okay. Well, thank you, Beth. I do
6 appreciate you making yourself available here
7 today. I'm going to go through -- we're in a weird
8 world right now where we're doing all this stuff as
9 we were talking about and everything virtually so
10 I'm going to go through a list of items, kind of
11 the ground rules of how this should work. So is
12 anybody else in the room with you?

13 A. Yes, my Golden Retriever, Lucy, and she
14 wanders in and out periodically, but no, I'm here
15 alone other than her.

16 Q. Okay. If anyone other than Lucy comes
17 into the room at any time, will you please let me
18 know?

19 A. Yes, sir.

20 Q. Okay. And then are you looking at
21 anything other than like your screen that the

1 deposition is on? Like do you have notepads or
2 cell phones or documents or papers or anything like
3 that in front of you?

4 A. Yes, sir, I do. I have my cell phone and
5 I have a -- some copies of notes from minutes from
6 when I served on the BOOST Commission.

7 Q. Okay. So some minutes from those
8 meetings. Got it. Okay. And then as far as your
9 phone goes and things like that, generally it's not
10 permissible to -- to phone a friend or consult with
11 someone else if you're in the middle of a question
12 and answer.

13 I think we'd probably notice that, if
14 that were the case, but I just wanted to -- to make
15 that clear. I assume you're able to see and hear
16 me clearly. Everything is good that way?

17 A. Yes, sir.

18 Q. Thanks, Beth. So yeah, while we're on
19 the record, unless I -- so the way this will work
20 is I'm going to probably share my screen and that
21 will give you exhibits and things to look at and

1 I'll probably ask you, you know, do you recognize
2 this, and things like that.

3 With the exception of that, please, you
4 know, doesn't consult other items or materials to
5 answer questions. And if you have something in
6 your notes that -- that kind of refreshes your
7 memory, let me know before you consult that or just
8 tell me what you're doing I guess is --

9 A. Okay.

10 Q. -- really where I'm getting at. So --
11 and that kind of gets to the point like really
12 we're just trying to get you to answer all
13 questions by yourself.

14 In the United States we have very broad
15 discovery, which is kind of unusual, and so that --
16 that's what today is all about. It's just a
17 factfinding process. The parties are exchanging
18 information and trying to figure out what happened,
19 you know, the who, what, when, where, whys of all
20 these things.

21 So let's see. If anything is wrong tech

1 -- so when we were having our depositions last
2 week, we would have a technical issue or something
3 like that. If something happens, just let me know.

4 If -- if you can't hear me or something,
5 just ask for a repeat. That's good. If something
6 happens to your computer, you know, just let us
7 know and we'll -- we'll pause.

8 And then that also goes for if you need a
9 break -- you know, if this goes a little longer
10 than I anticipate today and you would like to have
11 a break, that's fine. Just generally whatever
12 question you're answering, finish your answer and
13 say hey, can we take a break so...

14 A. Thank you. I will.

15 Q. Okay. Great. So then this is for the
16 record. Would you please tell me your name and
17 spell it for me.

18 A. My name is Beth Sandbower Harbinson.
19 B-E-T-H. Middle name is S-A-N-D-B, as in boy,
20 O-W-E-R. Last name, Harbinson, H-A-R-B-I-N-S-O-N.

21 Q. Great. Thank you. And Beth, where do

1 you live?

2 A. I live in Ellicott City, Maryland.

3 Q. Excellent. And that's where you're being
4 deposed from today presumably?

5 A. Yes.

6 Q. Okay. And can you tell me a little bit
7 about your educational background?

8 A. Sure. I have a Bachelor's in history in
9 American studies from Dickinson College and I hold
10 a certificate in nonprofit studies from Goucher
11 College in Maryland.

12 Q. Excellent. And could you walk me through
13 your professional background, please?

14 A. Sure. I have a background in sales,
15 marketing, and business start-up and about 25 years
16 ago I entered the nonprofit world and have worked
17 in fundraising, development, and board development
18 for the last 25 years --

19 Q. Great.

20 A. -- for various nonprofits.

21 Q. Great. What are -- what are the

1 nonprofits who you have worked with or for?

2 A. I started my career with The American
3 Heart Association and then I worked for Cystic
4 Fibrosis. After that I started a fundraising
5 consulting firm and my clients included Meals on
6 Wheels of Central Maryland, Johns Hopkins
7 Paediatric Oncology, The Baltimore Opera Company
8 before it went defunct.

9 And then I also worked for a school in
10 Silver Spring called the Barrie School. And after
11 the Barrie School I started in my current position
12 with Childrens Scholarship Fund Baltimore.

13 Q. So with the -- just from, you know, the
14 little bit of research I -- I did just so I was
15 prepared to take your deposition today, it seems
16 like you've been involved in education issues,
17 too. Was it through the -- your work with the
18 Barrie School? Was that the avenue by which you
19 got involved in private ed?

20 A. That's where I started in private ed, but
21 I became involved in issues around education in my

1 current position with Childrens Scholarship Fund
2 Baltimore.

3 Q. Okay. Great. And so let's talk about
4 then your involvement with BOOST and -- and that
5 program. Well, actually, before we do that, so the
6 Childrens Scholarship Fund, could you tell me a
7 little bit about that organization, what type of
8 work you guys do?

9 A. Sure. Our mission is to provide tuition
10 assistance to low income Baltimore City families
11 for their children to attend the kindergarten
12 through eighth grade school of their choice and I
13 do all the fundraising for them and development.

14 Q. Great. So you were a natural person then
15 to work with the BOOST program?

16 A. I suppose.

17 Q. So how was it that you came to be on the
18 BOOST Board?

19 A. A member of our -- a donor to Childrens
20 Scholarship Fund Baltimore expressed his interest
21 in me considering a position on the BOOST Board

1 because of my background and I was recommended --

2 (Interruption.)

3 A. Excuse me -- I was recommended to serve
4 on that Commission and was asked by the chair of
5 the Commission I believe, Matthew Gallagher, to
6 join the Commission.

7 Q. Okay. So -- so Matt Gallagher reached
8 out to you and said we'd like you to join. Who --
9 who was it who appointed you to the BOOST Board?

10 A. Governor Larry Hogan.

11 Q. And was it Matt Gallagher who facilitated
12 your appointment or how did that come about?

13 A. I'm not sure.

14 Q. All right. How long have you been on the
15 BOOST Board?

16 A. I'm not currently serving on the BOOST
17 Board and I believe my -- I believe I served
18 somewhere between four and five years.

19 Q. Okay. And did you -- did you elect to
20 leave the BOOST Board or -- or how did your end of
21 service come about?

1 A. I elected to leave the BOOST Board just
2 because I was overwhelmed with work and other
3 things and felt that my service tenure, it was time
4 for it to come to an end.

5 Q. Well, I imagine -- I imagine it took up a
6 lot of your time I'm sure.

7 A. It did.

8 Q. Yeah. So when you were on the BOOST
9 Board, I'd like to know a little bit about the
10 dynamics of the board. So as I understand it,
11 there are six members and then also a chairman; is
12 that correct?

13 A. I don't recall the number of members. I
14 believe there might have been more.

15 Q. Okay. Do you remember how many members
16 -- how many members there were at the time you were
17 on the Board?

18 A. I'm not sure.

19 Q. Okay. If you had to ballpark or a range?

20 A. Seven or eight.

21 Q. Seven or eight. Okay. And then as far

1 as your involvement with the BOOST Board, were you
2 on the BOOST Board from the beginning of the
3 program?

4 A. I believe so.

5 Q. Okay. And so as BOOST is getting
6 launched -- because it was a new program. As
7 you're on there starting, how was it that you as a
8 board member became oriented with the program?

9 Were you given information from the MSDE
10 or was this a thing where you guys met and then
11 gave directions to the MSDE to kind of get the
12 program going? How did that -- walk me through how
13 that happened.

14 A. We weren't involved in getting the
15 program going. As a member of the BOOST
16 Commission, we -- our charter was really to follow
17 the legislation directives that had -- the
18 legislation directives that had been passed in
19 administering the money.

20 So we were stewards of the intention of
21 the legislature and really didn't set policy around

1 BOOST. We just carried it out.

2 Q. Okay. And as far as carrying out policy
3 goes, did you ever at any time have conversations
4 with members of the legislature or governor or
5 maybe staff for the legislature or the General
6 Assembly I should say or the Governor's Office on
7 policy or implementing the program or, you know,
8 any of that?

9 A. Not directly, no.

10 Q. Not directly. How about indirectly?

11 A. The conversations we had around policy
12 were really contained within the BOOST Commission
13 itself. So members of MSDE, for example, were
14 always part of our meetings and often if there were
15 issues that we didn't understand, those issues were
16 taken into consideration by counsel and we were
17 advised as a Commission from their perspective
18 about the interpretation of whatever portion of the
19 legislation we were discussing.

20 Q. Great. So if I'm understanding -- if I'm
21 understanding you right, the legislature basically

1 wrote the law, the Budget Bill, and the BOOST Board
2 is set up and you guys have that language, but --
3 which you take to be the policy of the State, but
4 there's no communications from either the
5 Governor's Office, the executive branch, or the
6 legislative branch on implementing that. All you
7 have is the Budget Bill language; is that right?

8 A. The language we received and worked from
9 was very specific about the implementation of the
10 monies, who the money was supposed to go to. We
11 had to figure out some of the details regarding
12 that; for example, the timing of the allocation,
13 the amount of the award per student. And so there
14 was some interpretation.

15 So we certainly had a lot of language to
16 consider and discuss so that we carried it out with
17 the intention that the legislators had when they
18 passed.

19 Q. Okay. And then as far as on the Board,
20 so you have different members and then
21 Mr. Gallagher was the chair; is that correct?

1 A. Yes, sir.

2 Q. Was there any -- how would you describe
3 your involvement in -- as a member of the BOOST
4 Board? So I guess what I -- what I mean by that is
5 different members have different roles on the board
6 or different expertises or -- or areas of concern?

7 A. I'm not sure I understand your question.

8 Q. Sure. So would -- let me put it this
9 way: Would you have considered yourself and active
10 -- a pretty active member of the BOOST Board?

11 A. Yes, sir.

12 Q. Okay. Would you say that all members of
13 the BOOST Board were equally active or were some
14 less involved than others?

15 A. A fewer less involved than others.

16 Q. Okay. Was Mr. Gallagher perhaps more
17 involved than most by virtue of his position as
18 chair?

19 A. No, sir.

20 Q. No. Okay. Was he one of the members of
21 the BOOST Board who was less involved?

1 A. No, sir.

2 Q. Okay. So he's involved, but he's not
3 exceptionally involved; is that -- is that right?

4 A. Yes.

5 Q. Okay. Gotcha. Thank you.

6 A. Equitably involved.

7 Q. Equitably involved. Okay. Okay. So
8 let's talk about then -- I mean, obviously you know
9 why you're here today in the suit that has been --
10 has been filed. I should have asked this at the
11 beginning, but have you ever been involved in a
12 lawsuit before?

13 A. Yes, sir.

14 Q. Okay. Have you ever been deposed before?

15 A. Not that I recall.

16 Q. Okay. Gotcha. So you know why we're
17 here today. How did the issue of potential
18 discrimination or say alleged discrimination by
19 BOOST schools come about in your recollection?

20 A. My recollection is that we received
21 through MSDE a memo or letter from a PTA

1 identifying some discriminatory language, language
2 they felt was discriminatory in some of the
3 schools' handbooks or admissions materials.

4 Q. Okay. And what is a PTA or what was --
5 what organization is that?

6 A. My un -- the acronym stands for Parent
7 Teacher Association. I'm not sure which PTA
8 brought this to our attention.

9 Q. Okay. And have you had any kind of
10 involvement with any PTA organization either
11 through your -- in your personal life perhaps or in
12 your involvement in the private school world?

13 A. Just in my personal life when my children
14 were in elementary school.

15 Q. Okay. But you don't know whether it was
16 a related organization to the one that -- that
17 brought the concern to the MSDE?

18 A. I don't believe that specific branch was,
19 no.

20 Q. So the -- the -- it ends -- it ends up
21 being I think the Maryland PTA. The Maryland PTA

1 lodges a complaint with the MSDE and they bring it
2 to the BOOST Board's attention. What -- do you
3 remember what was your impression or reaction to
4 that allegation?

5 A. As we always did, we went back and looked
6 at the language in the BOOST Bill because again,
7 I'm serving on the BOOST Commission as not an
8 advocate for my own position; I'm serving as
9 someone who is there to interpret the intention of
10 the legislature.

11 So my recollection was that, you know, we
12 decided to look into the information we had
13 received and do some research around it and that's
14 what I remember from that time.

15 Q. Okay. Let's see how incompetent I am
16 with this. I'm going to try to share something
17 with you. It may be better if I just screenshare
18 it. Let see here. Okay. So I'm going to share,
19 let's see, what I've marked as Exhibit 31.

20 (Whereupon, House Bill 150 Language was
21 entered as Exhibit No. 31 by counsel in Exhibit

1 Share.)

2 BY MR. SCHMITT:

3 Q. Okay. I don't know. It may just be
4 easier for me to do screenshare and I can scroll
5 through it here so I'm going to do that.

6 Okay. All right, Beth. Can you see this?

7 A. Yes, I can.

8 Q. Okay. And are you -- do you recognize
9 it?

10 A. Yes, I do.

11 Q. Okay. What is it?

12 A. It is the BOOST, ah, kind of directive --

13 Q. Okay.

14 A. -- I'll call it.

15 Q. Yeah. So the legislation that
16 established BOOST and set the requirements?

17 A. Correct.

18 Q. Okay. Let's look at this section
19 here. You can see my mouse or my highlight here?

20 A. I can.

21 Q. Okay. And you see this is talking about

1 BOOST --

2 A. Yes.

3 Q. -- specifically and not the other eight
4 programs. So -- okay. Do you see -- can you just
5 read this portion that I've highlighted right here?

6 A. "The Maryland State Department of
7 Education, MSDE, shall administer the grant program
8 in accordance with the following guidelines..."

9 Q. Okay. And then what's the next
10 subparagraph say here?

11 A. "To be eligible to participate in the
12 BOOST program, a nonpublic school must:"

13 Q. Okay. And let's skip down -- we'll just
14 kind of cut to the chase here. We'll skip down to
15 sub-subparagraph E. Can you go -- let's go ahead
16 and go through that. So it says you must "comply
17 with Title VI of the Civil Rights Act of 1964" and
18 then, what -- what are the rest of the
19 discriminations or -- or excuse me -- the
20 requirements that I've just highlighted?

21 A. You've highlighted the section that says,

1 "...and not discriminate in student admissions on
2 the basis of race, color, national origin, or
3 sexual orientation."

4 Q. Okay. And then go ahead and keep going.

5 A. "Nothing herein shall require any school
6 or institution to adopt any rules, regulation, or
7 policy that conflicts with its religious or moral
8 teachings.

9 However, all participating schools must
10 agree that they will not discriminate in student
11 admissions based on race, color, national origin,
12 or sexual orientation."

13 Q. Okay. I think that's good. So you were
14 just telling me earlier that you -- you as a board
15 relied on the language of the legislature and the
16 governor had signed off on through the Budget Bill
17 and that really was -- it was your job to interpret
18 the policy, not to make the policy; is that right?

19 A. Yes.

20 Q. Okay. So within your capacity as
21 interpreting this policy, how would -- well,

1 let's -- let's start at the beginning. How did the
2 BOOST Board decide to give effect to this
3 requirement, this nondiscrimination requirement?
4 How would they ensure that schools complied with
5 it?

6 A. There is -- my recollection is that there
7 is a textbook program that the state runs that also
8 has similar requirements for inclusion.

9 In part, we looked at the schools who
10 were part of the textbook group I'll call it to
11 kind of see who had already met qualifications, but
12 it was -- there were assurances that the schools
13 signed stating that they would follow these
14 policies and adhere to these policies if they
15 accepted monies from BOOST.

16 Q. So the assurances of nondiscrimination,
17 that idea came from -- I'm just clarifying to make
18 sure I understand -- that idea came from the
19 preexisting practice from the other state aide
20 programs?

21 A. It wasn't formed by that, but it was

1 discussed in the BOOST Commission as well because
2 we determined that it wasn't reasonable to read
3 through hundreds of school admissions brochures and
4 handbooks to determine that ourselves.

5 Q. Okay.

6 A. We decided to put the onus on the schools
7 to sign the --

8 Q. Okay.

9 A. -- assurances.

10 Q. And so there was kind of a default we'll
11 call it, a level of trust that the schools would
12 comply with whatever they were signing onto?

13 A. Yes.

14 Q. Okay. As far as when the BOOST program
15 is launching, do you know, how did it -- how did
16 the BOOST Board make the program known to potential
17 participating schools? Or how did -- how did the
18 BOOST Board recruit schools to participate in the
19 program is probably a cleaner way to say that.

20 A. I don't know the answer to that question.

21 Q. Okay. So was this a matter probably

1 handled by the MSDE?

2 A. That would be my assumption.

3 Q. Okay. So -- so the BOOST Board has this
4 determined -- this language here in subsection D.
5 You determined that it's too onerous to go through
6 handbooks and websites so the assurance -- the
7 assurances are developed.

8 What did the BOOST Board -- when the
9 BOOST Board was looking at this language and trying
10 to establish a policy, how did you imagine that a
11 school would discriminate on the basis of sexual
12 orientation?

13 MR. SCOTT: Object -- objection to form.

14 MR. SCHMITT: You can answer.

15 THE WITNESS: I don't understand your
16 question.

17 BY MR. SCHMITT:

18 Q. Okay. It says that -- it says here -- am
19 I correct that it says here that schools shall not
20 discriminate in student admissions on the basis of,
21 among other things, sexual orientation?

1 A. Yes, sir.

2 Q. Okay. How would a school violate that
3 provision?

4 A. I believe that I think the Commission
5 believed that a school would violate that by trying
6 to determine a student's sexual orientation prior
7 to admission and denying admission to that student
8 if they felt that that student -- if they felt that
9 student had a sexual orientation other than what
10 they wanted to have represented in their school.

11 Q. Okay. So if a school didn't try to make
12 that determination before they admitted a -- a
13 student, they wouldn't violate the policy?

14 A. Not the admissions part of that policy,
15 correct.

16 Q. Okay. Is there a different part of that
17 policy that they might violate?

18 A. Not related to admissions, no.

19 Q. Let's look at the language below the list
20 of classes that the schools weren't supposed to
21 discriminate against.

1 It says, "Nothing herein shall require
2 any school or institution to adopt any rule,
3 regulation, or policy that conflicts with its
4 religious or moral teachings." Is that correct?

5 A. That's correct.

6 Q. How did the BOOST Board interpret and
7 implement this portion of the legislation?

8 A. We never required a school to adopt a
9 rule, regulation, or policy that conflicted with
10 its religious or moral teachings. However..." --
11 I'll continue reading that paragraph -- "...all
12 participating schools must agree that they will not
13 discriminate in student admissions based on race,
14 color, national origin, or sexual orientation."

15 Q. Okay. So let's say a school believed --
16 let's say a school believed that marriage was
17 between one man and one woman and did not accept as
18 a marriage other types of relationships. If they
19 had that belief, they could participate in the
20 program; is that correct?

21 MR. SCOTT: Objection to form.

1 MR. SCHMITT: You can answer.

2 THE WITNESS: If they had that belief, we
3 could not require them to change that belief or
4 change that -- we couldn't require them to change
5 that belief, but we could require them to not
6 discriminate based on that belief.

7 BY MR. SCHMITT:

8 Q. Okay. If they said that they believed
9 that, would that constitute discrimination?

10 MR. SCOTT: Objection to form.

11 MR. SCHMITT: You can answer.

12 THE WITNESS: It would -- I -- I think it
13 would have -- it would matter where they expressed
14 that belief and how they implemented that belief.

15 BY MR. SCHMITT:

16 Q. Okay. I think we will go to a different
17 document perhaps. Okay. I will stop my
18 share. Maybe. There we go. Okay. So -- we're
19 going to stay on this document while I'm
20 here. Let's take a look at it again. Okay. Can
21 you see we're back in House Bill 150?

1 A. Yes.

2 Q. So you have your nondiscrimination
3 requirements up here and then if you go farther
4 down in the Bill, you see subsection five here.
5 Can you tell me -- go ahead and read that for me,
6 please.

7 A. Paul, which section do you want me to
8 read?

9 Q. Oh, sorry. How about -- how about just
10 this one.

11 (Counsel indicating.)

12 A. "There is a BOOST advisory board that
13 shall be appointed by as follows: 2 members
14 appointed by the Governor, 2 members appointed by
15 the President of the Senate, 2 members appointed by
16 the Speaker of the House of Delegates, and 1 member
17 jointly appointed by the President and the Speaker
18 to serve as the chair.

19 A member of the BOOST advisory board may
20 not be an elected official and may not -- and may
21 not have any financial interest in an eligible

1 nonpublic school."

2 Q. Okay. So this establishes the BOOST
3 Board and up above that do you see these two
4 paragraphs deal with things that the MSDE should
5 do; is that correct?

6 A. Yes.

7 Q. Okay. And then it -- after the portion
8 you read, which is talking about establishing the
9 BOOST Board, the next section lists a duty or a
10 responsibility for the BOOST Board. What is that?

11 A. Number six says, "The BOOST advisory
12 board shall review and certify the ranked list of
13 applicants and shall determine the scholarship
14 award amounts."

15 Q. Okay. Are you -- are you aware of any
16 other language in House Bill 150 that gave the
17 BOOST Board any other responsibilities other than
18 what you just read from subsection six?

19 A. I recall that it was an extensive
20 document so I don't recall if there were any other
21 specific charges to us in that.

1 Q. Okay. But do you remember any discussion
2 at any point about the BOOST Board's capacity to
3 determine the eligibility of participating schools?

4 A. Can you repeat that question, please?

5 Q. Sure. Sure. So as the BOOST Board is
6 forming and you guys are getting launched and
7 getting everything set up, this language says,
8 right, that the BOOST Board shall review and
9 certify the applicants, so the students, and
10 determine the scholarship award amounts.

11 So basically look at the list that the
12 MSDE compiled, certify that it's right, and
13 determine the award amounts. Do you recall any
14 discussion or any other source for the authority to
15 determine whether or not schools were eligible to
16 participate?

17 A. The -- our charge related to schools
18 being able to participate is really found earlier
19 in the Bill. It's around the language that you
20 just read, but I don't recall any other specific
21 language to that end.

1 Q. Interesting. Okay. So the Trinity
2 Lutheran complaint happens with -- let me change my
3 screen here -- with The Maryland PTA and the BOOST
4 Board has to determine what to do about this.

5 Can you walk me through the process of
6 how the -- how you determined or how you decided to
7 proceed with addressing that complaint?

8 A. My recollection is that when we met after
9 receiving that communication that the Commission
10 reviewed the communication and had a conversation
11 about our role in what to do.

12 My recollection is that we had advice
13 from counsel in that regard and that they wanted to
14 review the BOOST Commission directives, the House
15 Bill, to -- to figure out what the proper course of
16 action should be and that we did decide to review
17 the materials or we did ask MSDE to review the
18 materials from the school or schools that had been
19 brought to our attention.

20 Q. So then -- so that -- that was initially
21 for Trinity Lutheran, but then another school got

1 brought to your attention I think in the meantime
2 and that's -- that's when you decided to start
3 looking into things more broadly?

4 A. I'm not sure what time we decided, but
5 when each -- when each school was brought to our
6 attention, we decided that it was important to
7 review that information as a steward of the Bill --

8 Q. Right. Okay.

9 A. -- the legislation.

10 Q. Thank you. So at some point it is
11 decided that a broader amount of information needs
12 to be collected. Do you remember when that
13 decision was made?

14 A. I do not.

15 Q. Okay. Did you -- you're aware that MSDE
16 collected handbooks from all the participating
17 BOOST schools?

18 A. I was not aware that they collected all
19 of the handbooks from all of the BOOST schools.

20 Q. Okay. You were aware that some of the
21 handbooks were collected?

1 A. Or language from the handbooks reviewed
2 online, yes.

3 Q. Okay. So did you personally review any
4 handbooks from any BOOST schools as -- as the
5 situation was unfolding?

6 A. Yes, we reviewed in our meetings language
7 from handbooks from the schools that had been
8 brought to our attention related to the issue.

9 Q. Okay. And who brought those schools to
10 your attention?

11 A. In the first case the PTA. I don't
12 recall who brought the schools to our attention in
13 the other cases.

14 Q. Okay. So the BOOST Board -- when you're
15 on the BOOST Board, you understand that there might
16 be a problem with the language in the handbooks at
17 some schools. You ultimately review some handbooks
18 that are brought to you. Who brought them to you?

19 A. I believe MSD -- a representative from
20 the MSDE brought that information to the
21 Commission.

1 Q. Okay. So the MSDE then must have
2 reviewed handbooks to bring them to your attention?

3 MR. SCOTT: Objection to form.

4 MR. SCHMITT: You can answer.

5 THE WITNESS: I have no knowledge of that
6 one way or another.

7 BY MR. SCHMITT:

8 Q. Okay. So you have -- do you know how
9 many schools are in BOOST or were in BOOST roughly
10 in any given year?

11 A. I'm going to estimate 80 to 100.

12 Q. Eighty to 100?

13 A. Maybe more.

14 Q. Okay. And it -- I think the number of
15 schools probably increased year-to-year. Do you
16 recall whether that's correct or not?

17 A. Probably.

18 Q. Okay. So out of the 80 to 100, let's
19 just say that that's how many schools there were,
20 how many schools' handbooks would you say you
21 reviewed?

1 A. Only the ones that were brought to our
2 attention as having violated the language in the
3 Bill.

4 Q. Okay. So someone had determined that the
5 schools' handbook language had violated the
6 language of the Bill before you saw any handbooks;
7 is that correct?

8 A. No. The -- the issue was brought to the
9 Commission and we decided to investigate. No one
10 had made a determination of whether there was
11 discriminatory language in it before we had
12 actually looked at the language.

13 Q. Sure. So I -- yeah. Sorry about that.
14 I'm not trying to badger you on this. I'm just
15 trying to understand. So if there's 80 to 100
16 schools and you reviewed some that got brought to
17 your attention, that was presumably not 80 to 100;
18 there had to be a filter, right?

19 So somebody made a decision of what to
20 bring to your attention and I'm just asking that
21 wasn't you or the other members of the BOOST Board,

1 right?

2 A. Correct.

3 Q. Okay. Good. So -- so I didn't mean to
4 be -- I wasn't trying to trick you or anything like
5 that. I was just trying to understand how it
6 unfolded. So -- okay. So there's a screening of
7 some kind; certain handbooks are brought to your
8 attention which you review as potentially violating
9 the Budget Bill language.

10 Let's -- do you know -- do you know any
11 of the principles or guidelines or policies that
12 were applied to the handbooks that got them brought
13 to your attention or flagged for a review by the
14 BOOST Board?

15 A. We were specifically looking at language
16 that would discriminate in admissions policies
17 around sexual orientation.

18 Q. Okay. And did the BOOST Board or the
19 MSDE to your knowledge look for discriminatory
20 language on any other prohibitive basis?

21 A. I believe we looked at the entire

1 sections of the handbooks that discussed the broad
2 group of discriminatory practices outlined in the
3 Bill; race, sexual orientation, all of the -- kind
4 of all of the language related to that section of
5 the BOOST bill was reviewed.

6 Q. Okay. Let's go ahead and take a look at
7 another document. I'm going to pull up what I'm
8 calling Exhibit 33. Hmm. Hmm. Hmm. Sorry.

9 (Whereupon, 2018.01.09 Bethel Defendants
10 1332 - MSDE and BOOST chair received legal guidance
11 memo was entered as Exhibit No. 33 by counsel in
12 Exhibit Share.)

13 BY MR. SCHMITT:

14 Q. Okay. Do you see this document?

15 A. I see a document, Exhibit 33. Yes.

16 Q. Okay. And do you recognize it?

17 A. Yes.

18 Q. Okay. What is this document?

19 A. This is a memo from Elizabeth Kameen and
20 Allen Dunklow to Matt Gallagher and Monica Kearns.

21 Q. And did you receive a copy of it?

1 A. I don't recall.

2 Q. Okay. Do you recall receiving a copy of
3 any kind of similar memo?

4 A. I believe so.

5 Q. Okay. And what was the purpose of this
6 memo?

7 A. Give me a moment to review it, please.

8 Q. Sure. Yeah. Take your time. If you --
9 I don't know -- I don't think you can probably
10 scroll so if you need me to move it around, I can
11 do that.

12 (Whereupon, a brief pause was taken for
13 document examination.)

14 A. Thank you. If you can scroll down,
15 please.

16 Q. Sure. How is that? Is that good?

17 A. Yes. Great. Okay. Yes, I'm familiar
18 with this document.

19 Q. Okay. So -- okay. Good. And let's just
20 scroll down a little bit more onto the second page
21 and this Bates number Bethel Defendant's 1332.001

1 and then the second page is .002. Okay. Do you
2 see this discussion here about three categories of
3 schools?

4 A. Yes.

5 Q. Okay. Do you remember discussions about
6 different categories of schools when you were on
7 the BOOST Board?

8 A. Yes.

9 Q. What was your understanding of the three
10 different categories of schools?

11 A. The first is clearly stated in this
12 memo. It's those schools that reserve the right to
13 refuse admission based on sexual orientation and we
14 felt clearly discriminate -- wasn't in -- was in
15 vio -- not -- it -- it was in conflict. I'll use
16 the language here in the memo -- with the BOOST
17 law.

18 Q. Okay.

19 A. And then the second category was the
20 schools that reserved the right to refuse admission
21 based on generic sexual misconduct, which they've

1 define as nonmarital sexual conduct and homosexual
2 conduct, and that we had a conversation around
3 these schools, you know, attempting to distinguish
4 between same sex feelings and behavior with only
5 the latter being considered a violation of school
6 policy.

7 Q. Mm-hmm.

8 A. And again, that -- that this language was
9 also in conflict with the legislation because they
10 could refuse admission.

11 And then the third category were the
12 schools that, as the memo says, "remained silent as
13 to admission requirements related to sexual
14 orientation..." and the school's requirement that
15 parents and students adhere to the religious
16 principles, but they don't mention specifically
17 sexual orientation.

18 Q. Okay. So who determined -- as an initial
19 matter, who determined which category of
20 participating school would fit into based on their
21 handbook language?

1 A. This memo uses examples in --

2 Q. Mm-hmm.

3 A. -- its categorization and the BOOST
4 Commission then had a conversation in our meeting
5 around each specific school related to the guidance
6 that we received in this memo.

7 Q. Okay. So each specific school, so
8 meaning the schools that were brought to your
9 attention?

10 A. Yes. Correct.

11 Q. Okay. So the BOOST Board didn't go out
12 proactively and -- and look at handbooks for
13 schools that were other -- that were not brought to
14 its attention?

15 A. Not to my knowledge.

16 Q. Okay. So -- so who -- was there someone
17 who -- or who -- when you -- okay. So you have
18 these schools brought to your attention. Were
19 these schools already suggested to be in a category
20 one, two, or three when they were brought to your
21 attention or did that come later?

1 A. No, I believe that came later.

2 Q. Okay. And so but it's the BOOST Board
3 who placed these schools in different categories?

4 A. My recollection is that each school was
5 discussed individually as it pertained to their
6 compliance with this portion of the legislation. I
7 don't recall whether we had a conversation around
8 which -- which school would be in which category
9 collectively.

10 Q. Let's take a look at -- let's take a look
11 at this document. Maybe. So I'm introducing an
12 exhibit that I've marked Exhibit 34 and I'll share
13 my screen here. Maybe. If it decides to pull
14 up. There we go. Okay. And I think this has a
15 Bates number on it Bethel-Gallagher 0568-001.

16 (Whereupon, 2018.03.07 Bethel-Gallagher
17 0568 - List of Cat3 or noncompliant schools was
18 entered as Exhibit No. 34 by counsel in Exhibit
19 Share.)

20 BY MR. SCHMITT:

21 Q. Okay. Have you ever seen something like

1 this before, Beth?

2 A. Yes.

3 Q. Okay. What is this document?

4 A. This is a document that was prepared by
5 MSDE prior to one of our meetings that listed
6 schools with handbooks that did not comply with the
7 nondiscrimination requirements and also the second
8 part of this shows the -- listed the BOOST schools
9 in handbook category three of the legal advice
10 memo, which we just reviewed, on the
11 nondiscrimination requirements.

12 Q. Great. And do you see there are three
13 schools highlighted on the bottom there? They're
14 in gray.

15 A. I do.

16 Q. What are those schools?

17 A. Those are Bethel Christian Academy -
18 Savage; Bardford -- Broadfording Christian Academy
19 in Hagerstown, and Woodstream Christian Academy in
20 Mitchellville.

21 Q. Okay. So these -- these three schools at

1 least -- and it says as of April 2018 were
2 determined to be in category three; is that
3 correct?

4 A. Yes, but they were under review as the
5 notes state.

6 Q. Okay. And other schools listed there,
7 the notes say were found to be in compliance; is
8 that right?

9 A. Correct.

10 Q. So these schools, all these schools on
11 this list, the top and the bottom, at some point
12 they'd been brought to the attention of the BOOST
13 Board; is that right?

14 A. That's my recollection.

15 Q. Do you know who brought these schools to
16 the attention of the BOOST Board?

17 A. I don't recall.

18 Q. Okay. Was it someone who would have
19 worked for MSDE?

20 A. I don't recall.

21 Q. Okay. So you have these three schools

1 still under review. The others are ultimately
2 found to be in compliance. I'm going to stop
3 sharing that and we're going to go to a different
4 document. So that was as of March and April that
5 those statuses had been determined. Let me
6 introduce this one, which I'm going to call Exhibit
7 35.

8 (Whereupon, 2018.02.21 BETHEL DEFENDANTS
9 3477 - Summary of decisions outline of three
10 categories, gray area was entered as Exhibit No. 35
11 by counsel in Exhibit Share.)

12 BY MR. SCHMITT:

13 Q. Okay. Thank you for your patience,
14 Beth. Do you recognize this document?

15 A. Yes.

16 Q. Okay. And do you see this -- I've marked
17 this as Exhibit 35. It's also Bates stamped Bethel
18 Defendant's 3477. What is this document?

19 A. This is a summary of the decisions memo
20 that was -- these were created after each meeting,
21 after our advisory board meetings. It was a

1 summary of the decisions made at that particular
2 meeting.

3 Q. Great. And then do you see under the
4 first bullet point here it's talking about -- it
5 must have been -- is it true -- let me just -- let
6 me rephrase.

7 Is it true that at your February 21st
8 meeting in 2018 the BOOST Board discussed student
9 handbooks and the legal advice memo that we went
10 over just a few minutes ago?

11 A. I believe so.

12 Q. Okay. And then do you see the I guess it
13 would be sub-bullet -- I'm going to highlight it
14 here, but it's 1A, small one. This one right
15 here. Do you see that?

16 (Counsel indicating.)

17 A. Yes.

18 Q. Okay. And it says -- it talks about the
19 three categories that you just described; is that
20 right?

21 A. Yes.

1 Q. And it says that the third category, the
2 category three, is a gray area. Is that correct?

3 A. Yes.

4 Q. Okay. So was it the BOOST Board's
5 understanding that category three schools were not
6 clearly in violation of the BOOST law at that
7 point, that it required some -- some further
8 conversation?

9 A. It --

10 MR. SCOTT: Objection to form. You can
11 answer.

12 THE WITNESS: It required that that -- my
13 recollection is that we determined that it required
14 further review.

15 BY MR. SCHMITT:

16 Q. Okay. And then how did the BOOST Board
17 determine that -- that further review would be
18 conducted?

19 A. At a subsequent meeting.

20 Q. Okay.

21 A. We would gather additional information

1 and we were active -- you know, we proactively
2 went out and asked those schools for additional
3 information so that we could make a prudent
4 decision.

5 Q. Great. Okay. So you gather additional
6 information. How did the BOOST Board go about
7 doing that?

8 A. We wrote a letter to the schools
9 requesting additional information from them.

10 Q. Okay. What additional information did
11 you request?

12 A. I don't recall.

13 Q. Let's take a look.

14 A. Excuse me. I'm just going to turn on the
15 space heater under my desk. It's a little chilly
16 in here.

17 Q. Go for it. It's a cloudy day. Let's go
18 back to something real quick. Okay. I'm going to
19 pull up Exhibit 34 again real quick. The -- the
20 section on category three schools where it says
21 that some of them as of April had been found to be

1 in compliance, who was it that found them to be in
2 compliance?

3 A. The BOOST Commission after review of the
4 materials we were presented.

5 Q. Okay. And the BOOST -- the BOOST
6 Commission discussed and debated each one of these
7 schools who was found to be in compliance?

8 A. I don't remember if we discussed each of
9 those schools specifically.

10 Q. Is it possible that the BOOST Board or
11 Commission as you say delegated that determination
12 to anyone?

13 A. We were receiving advice from counsel,
14 from Liz Kameen.

15 Q. So did you delegate that decision
16 authority to Liz Kameen?

17 A. We did not. This happened quite a while
18 ago and my general recollection is that all of the
19 -- all of the decisions that we made in this regard
20 and any regard were really collaborative and
21 cooperative between the BOOST Commission and

1 counsel and MSDE.

2 Q. Okay. Let me show you something that
3 I've marked as Exhibit 39. Let me actually
4 introduce it and then I'll show you.

5 MR. SCOTT: I'm sorry, Paul. What's the
6 number?

7 MR. SCHMITT: 3-9.

8 MR. SCOTT: Thank you.

9 (Whereupon, 2018.04.12 Gallagher Kearns
10 emails on payments to category 3 schools Maryland
11 AGs office was entered as Exhibit No. 39 by counsel
12 in Exhibit Share.)

13 BY MR. SCHMITT:

14 Q. Hang on. Just give me one second. So,
15 Beth, you recall that that document that we just
16 looked at was from -- from March or Ap -- well, it
17 must have been from at least April of 2018 because
18 that was the status thing; is that right?

19 A. Yes.

20 Q. Okay. So let me -- let's take a look at
21 this document. This appears to be -- I've marked

1 it Exhibit 39 and it's marked Bethel-Gallagher
2 0348. It appears to be an email chain between
3 Monica Kearns and Matt Gallagher; is that correct?

4 A. Yes, it appears that that's who it is to
5 and from.

6 Q. Okay. Could you go ahead and read the
7 question that Monica poses to Matt on Thursday,
8 April 12th of 2018?

9 A. "Matt --

10 Q. Probably the third thing down. Go
11 ahead. Sorry.

12 A. Okay. "Matt, Liz Kameen, and Alan
13 Dunklow have reviewed all 11 of the school
14 handbooks in category three. They say that eight
15 have cleared the legal hurdle, but three have to be
16 held, Bethel, Broadfording, and Woodstream. Can we
17 move forward with BOOST payments for the eight that
18 have legal clearance or do we need to wait until
19 after the next board meeting?"

20 Q. Okay. And what was Matt Gallagher's
21 reply to that?

1 A. He says, is the AG's -- it says, "Is the
2 AG's office has cleared them, I'll say pay
3 them. Seems cut and dry."

4 Q. And then Monica thanks him for that
5 information?

6 A. Correct.

7 Q. Beth, having reviewed this, do you -- do
8 you want to revise your answer on whether the BOOST
9 Board delegated anything to the -- to Liz Kameen,
10 Alan Dunklow, or anybody else?

11 MR. SCOTT: Objection to form.

12 THE WITNESS: May I answer this?

13 MR. SCHMITT: Yeah.

14 MR. SCOTT: Yes.

15 THE WITNESS: It appeared -- this memo
16 states that Liz Kameen and Alan Dunklow have
17 reviewed all 11 of the school handbooks and they've
18 said that eight have cleared the legal hurdle so
19 I -- I don't dispute that statement.

20 BY MR. SCHMITT:

21 Q. Okay. But it also says that they didn't

1 need to wait for another board meeting after the
2 AG's office made their analysis; is that correct?

3 A. That's correct.

4 MR. SCOTT: Objection.

5 MR. SCHMITT: Okay. Thank you.

6 BY MR. SCHMITT:

7 Q. Let's see here. So let's look at the --
8 well, let's cut to the chase with respect to
9 Bethel. I will get the hang of this. I'm
10 sorry. At some point. I think this was previously
11 marked as Exhibit 2 so that's what I'm going to
12 mark it to try to avoid duplicates from our other
13 depositions, but -- let's just go that
14 way. Okay. We can work it out, if it's different.

15 (Whereupon, Bethel 2017-18 Handbook was
16 entered as Exhibit No. 2 by counsel in Exhibit
17 Share.)

18 BY MR. SCHMITT:

19 Q. Okay. Let me share. All right, Beth.
20 Do you see this document?

21 A. Yes.

1 Q. Do you recognize it?

2 A. No.

3 Q. Okay. Do you recall ever reviewing it?

4 A. I believe we reviewed language from it,
5 not the entire document.

6 Q. So you didn't review the -- you never
7 reviewed the document in its entirety?

8 A. I don't recall that we did.

9 Q. Okay. Do you know who provided the
10 language from this document that you reviewed?

11 A. I don't.

12 Q. Okay. Did the language -- was the
13 language that you reviewed from this document the
14 basis for determining that Bethel was ineligible to
15 participate in BOOST?

16 A. I believe so.

17 Q. Okay. Is it -- am I correct that based
18 on what we reviewed earlier in House Bill 150 that
19 students -- schools that participated in BOOST had
20 to agree not to discriminate in student admissions
21 on multiple bases, but specific to this case,

1 sexual orientation?

2 A. Correct.

3 Q. Okay. So if I take you down in this
4 document to what is the seventh page where this
5 appears to be Bethel's Admissions Policy and
6 including a Statement of Nondiscrimination. Do you
7 see that?

8 A. I do.

9 Q. Do you recall ever reviewing this page?

10 A. Give me a moment to take a look.

11 Q. Sure. Take your time.

12 A. Yes.

13 Q. Okay. So you reviewed this page from
14 Bethel's 2017 to 2018 handbook; is that right?

15 A. I believe so.

16 Q. Okay. Can you identify in here where it
17 says that Bethel will not admit students who are
18 homosexual?

19 MR. SCOTT: Objection. You can answer.

20 THE WITNESS: D -- we reviewed
21 specifically the section that says, "Middle school

1 students are required to sign a code of conduct and
2 parents must agree to support the enforcement of
3 the code of conduct. Parents must understand that
4 continued enrollment of their child/children is
5 dependent on their support of the school, its
6 staff, and its policy."

7 And then specifically in the section
8 below under Statement of Nondiscrimination, that it
9 -- in the beginning -- in the first paragraph it
10 does not mention sexual orientation as a
11 nondiscriminator and then in the second paragraph
12 in that section it defines marriage as the covenant
13 between one man and one woman.

14 And then the last sentence, "Therefore,
15 faculty, staff, and student conduct is expected to
16 align with this view. Faculty, staff, and students
17 are required to identify with, dress in accordance
18 with, and use the facilities associated..." --
19 that's not relevant, but the sentence before that
20 that I just read.

21 BY MR. SCHMITT:

1 Q. So the idea that Bethel supports the
2 biblical view of marriage defined as a covenant
3 between one man and one woman?

4 MR. SCOTT: Objection; mischaracterizes
5 the testimony.

6 MR. SCHMITT: I'm sorry, did you say it
7 was the sentence before that that was relevant?

8 THE WITNESS: I said all the sentences
9 that I just read was relevant. It was the fact --
10 we reviewed the fact that they did not mention
11 sexual orientation as a nondiscriminator. We
12 reviewed all of the sentences that I just read.

13 BY MR. SCHMITT:

14 Q. Okay.

15 A. And then the sentence that relates to one
16 man and one woman, "Therefore, faculty, staff, and
17 student conduct is expected to align with this
18 view."

19 Q. Uh-huh. Okay. And faculty, staff, and
20 student conduct is expected to align with what
21 view?

1 A. The view above that supports the biblical
2 view of marriage defined as a covenant between one
3 man and one woman.

4 Q. Okay. Are you aware of what grades
5 Bethel covers, like what -- what school years?

6 A. I believe Bethel covers K through eight.

7 Q. Okay. So is the biblical view that
8 marriage is between one man and one woman relevant
9 to kindergartners?

10 MR. SCOTT: Objection. You can answer.

11 THE WITNESS: I believe it's relevant to
12 any human being regardless of their age.

13 BY MR. SCHMITT:

14 Q. Okay. But can a kindergartner engage in
15 a marriage in Maryland?

16 A. No, not to my knowledge.

17 Q. Okay. So you mention that the lack of
18 inclusion of the term sexual orientation in
19 Bethel's Statement of Nondiscrimination above the
20 paragraph we were just talking about was a factor.

21 Did -- did the BOOST law require that

1 schools include a statement that they do not
2 discriminate on the basis of sexual orientation?

3 A. They required them to sign an assurance
4 that they did not discriminate based on sexual
5 orientation.

6 Q. Okay. So did the BOOST law require these
7 schools to adopt language in their handbooks that
8 said we don't discriminate on sexual orientation?

9 MR. SCOTT: Objection. You can answer.

10 THE WITNESS: I don't believe so.

11 BY MR. SCHMITT:

12 Q. Okay. So -- okay. So you just said the
13 BOOST law required them to sign an assurance. Do
14 you know whether Bethel had signed an assurance?

15 A. I believe they had.

16 Q. Okay. So Bethel had signed an assurance
17 which is what the BOOST law required; is that
18 correct?

19 A. I believe they had, yes.

20 Q. Okay. And Bethel did not include
21 language in its handbook that was not required by

1 BOOST law, but that was still a factor in the
2 Board's analysis; is that correct?

3 MR. SCOTT: Objection. You can answer.

4 THE WITNESS: In signing an assurance the
5 BOOST Commission felt that schools had a good-faith
6 -- were making a good-faith, honest representation
7 of what was included in their policies and that
8 certainly includes their written policies.

9 BY MR. SCHMITT:

10 Q. Okay. So -- okay. So what language in
11 here caused the BOOST Board to doubt the veracity
12 of Bethel's assurance that it would not
13 discriminate on the basis of sexual orientation?

14 MR. SCOTT: Objection; asked and
15 answered. You can answer.

16 THE WITNESS: My recollection is that it
17 was because of the exclusion of sexual orientation
18 as a nondiscriminator in the first part of this
19 admission policy and then in the second part under
20 Statement of Nondiscrimination the fact that they
21 define marriage as the covenant between one man and

1 one woman and then explicitly say that faculty,
2 staff, and student conduct is expected to align
3 with this view.

4 Q. Okay. All right. Did the BOOST Board --
5 did anyone ever present any evidence to the BOOST
6 Board that Bethel had engaged in discrimination on
7 the basis of sexual orientation?

8 MR. SCOTT: Objection. You can answer.

9 THE WITNESS: I don't recall. I know
10 that there may have been an instance with a school
11 that was brought to us because of -- because of
12 dis -- being -- being denied admission, but I don't
13 recall which school that was and I'm not even a
14 hundred percent sure that was brought -- that was
15 the reason that any of this was brought to our
16 attention.

17 BY MR. SCHMITT:

18 Q. Okay. And we do know, because we were
19 discussing it earlier, right, that definitely it
20 was -- there was an issue with the Maryland PTA at
21 one point. So we know that that at least is the

1 basis for some of it, right?

2 A. Yes.

3 Q. So are you -- are you saying that there
4 might have been another -- another instance or
5 allegation, but you just don't recall?

6 A. There may have been. I just don't
7 recall.

8 Q. Okay. And you don't -- you have no
9 recollection of any allegation against Bethel
10 specifically?

11 A. I don't.

12 Q. Okay.

13 A. I don't recall.

14 Q. Okay. Let's take a look. Okay. I'm
15 going to introduce an exhibit that we've designated
16 as 47. Hmm. Hmm. Okay. Okay. I'm going to
17 share this document.

18 (Whereupon, Handbook Language of Schools
19 Disqualified from BOOST Program was entered as
20 Exhibit No. 47 by counsel in Exhibit Share.)

21 BY MR. SCHMITT:

1 Q. Do you see this document that I've marked
2 as Exhibit 47?

3 A. I do.

4 Q. It's got a Bates stamp on it Bethel
5 Defendant 1788?

6 A. Yes.

7 Q. Do you recognize this document?

8 A. Yes.

9 Q. Okay. What is it?

10 A. That was the language that was pulled
11 from various handbooks for our review in the BOOST
12 Commission.

13 Q. Okay. And let's see. I'm going to
14 scroll through it and you just -- so you can kind
15 of get oriented with it. Okay. Does that all look
16 familiar?

17 A. Yes.

18 Q. Okay. So what you -- you testified
19 earlier that you didn't review the entire document
20 of Bethel's handbook, but that certain language was
21 brought to you for your review. Is this the type

1 of format that you're talking about?

2 A. Yes.

3 Q. Okay. So you saw this and then what
4 other documents would you look at when you were
5 making your determination?

6 A. Paul, can you ask that question again,
7 please?

8 Q. Sure. Sure. Sorry. So aside from
9 something like this, what else would you have
10 looked at?

11 A. I think this may have been the only thing
12 that we looked at.

13 Q. Okay. So do you know who would have
14 prepared this document?

15 A. This would have come from MSDE or from
16 counsel.

17 Q. Okay.

18 A. I assume from MSDE.

19 Q. Okay. Let's see. Do you see on this
20 document there are highlighted portions?

21 A. Yes.

1 Q. Do you remember whether the versions of
2 this or whatever you would have looked at had
3 highlights on it like that?

4 A. I don't recall.

5 Q. It was a while ago. I wondered if this
6 was original to what you had seen. So let's just
7 take a look. Well, I tell you what I would like to
8 do. Can I go through -- I'm going to scroll
9 through. I want you to look at and identify each
10 of the schools on this list. Is that okay?

11 A. Sure.

12 Q. Okay. So starting with the first -- and
13 part of the reason I'm asking weird questions like
14 this is because this will get reproduced as a
15 transcript so a lot of this stuff is just helpful
16 for the reader to know what you and I are talking
17 about.

18 I should have told you that at the
19 beginning, but if you were ever like that was very
20 strange. A lot of times I'm just doing it so that
21 when someone reads it, they know what's going on.

1 Okay.

2 A. I understand.

3 Q. Okay. So -- let's see. What is the
4 first school?

5 A. Number one is Trinity Lutheran Christian
6 School.

7 Q. And the second one?

8 A. Number two is Grace Academy.

9 Q. Uh-huh.

10 A. Number three is Highland View
11 Academy. Number four is Spencerville Adventist
12 Academy. Number five is Takoma Academy. Number
13 six is Atholton Adventist Academy. Number seven is
14 Frederick Adventist Academy. Number eight is
15 Arnold Christian Academy. Number nine is
16 Celebration Christian Academy. Number 10 is
17 Broadfording Christian Academy. Number 11 is
18 Woodstream Christian Academy and number 12 is
19 Bethel Christian Academy.

20 Q. Okay. Is there anything that all of
21 these schools have in common that you recognize?

1 MR. SCOTT: Objection. You can answer.

2 THE WITNESS: Can you scroll down the
3 list again, please?

4 BY MR. SCHMITT:

5 Q. Sure. Just let me know if you need me to
6 slow down or speed up.

7 A. No, there's nothing on the face of it
8 that I would say they all have in common.

9 Q. Okay. You testified earlier that you
10 reviewed the handbook language that had been
11 curated and then brought to your attention from
12 however many schools.

13 Do you remember how many schools roughly
14 were brought to your attention, if you had to
15 guess? It doesn't have to be precise.

16 A. Between 15 and 20.

17 Q. Fifteen and 20? Were any of the 15 to 20
18 schools that you reviewed nonreligious?

19 A. I don't recall.

20 Q. You don't recall. Do any of the schools
21 on this list appear to be secular or nonreligious?

1 We can scroll through again, if you'd like.

2 A. They don't. Less than five percent of
3 the schools are nonreligious so I would doubt that
4 any of these were nonreligious.

5 Q. Okay. So -- but there are secular
6 private schools in Maryland?

7 A. Some.

8 Q. And do those schools participate in
9 BOOST?

10 A. Some.

11 Q. And you don't recall reviewing any of the
12 handbooks of a secular private school?

13 A. I do not.

14 Q. Are any of the schools on this list --
15 let me see. So, yeah, I guess a better way to
16 answer -- or to ask it would be are there schools
17 in Maryland that are religious, but not Christian?

18 A. Yes.

19 Q. Okay. Do -- do any religious schools
20 that are not Christian appear on this list or do
21 you recall reviewing the handbook language of any

1 private school that was religious, but not
2 Christian?

3 A. I don't know what the faith is of the
4 schools that are -- what the faith is of all of the
5 schools is on this list.

6 Q. Okay. Should we scroll through again --

7 A. Sure. So number one -- I'm not sure what
8 you're asking.

9 Q. Well, I'm -- I'm just saying so it would
10 seem like from the face of this language that you
11 can identify typically what types of schools they
12 are, right. So like the first one is -- identifies
13 itself as a Lutheran school.

14 A. Right.

15 Q. You know, further down you see other
16 things like Grace Academy wants to mold its
17 students to be Christ-like.

18 A. Okay.

19 Q. Do you see what I'm saying?

20 A. Yes.

21 Q. Okay. Highland View is affiliated with

1 the Seventh-Day Adventist Church --

2 A. Okay.

3 Q. Spencerville is an Adventist academy; is
4 that correct?

5 A. I don't want -- I don't know what -- oh,
6 Seventh-Day Adventist? I don't know the
7 denomination of that -- of that school.

8 Q. Okay. But you see here how --

9 A. Oh, Christian. Okay.

10 Q. It says it's a Christian identity.

11 A. I see that.

12 Q. All right. And these are Adventist
13 academies. Okay. So you see my point, right?

14 MR. SCOTT: Objection.

15 MR. SCHMITT: Okay.

16 BY MR. SCHMITT:

17 Q. So do you -- do you recall the BOOST
18 Board or the MSDE bringing to your attention any
19 schools that had a non-Christian identity?

20 A. We reviewed schools that had handbooks
21 with discriminatory policies. That's all I

1 remember.

2 Q. Okay. Great. Thank you. Let's
3 see. Let me say that -- let's just say there were
4 some schools that you reviewed their policies and
5 you found that the language in the handbook was
6 problematic.

7 A. Yes.

8 Q. What -- what would happen then when the
9 BOOST Board identified these schools that had the
10 problematic language?

11 A. My recollection is that we then contacted
12 the schools to let them know that they -- to remind
13 them that they had signed an assurance and what
14 that assurance was and that we had reviewed
15 language in their handbook that was in -- that
16 seemed in conflict with the signed assurance and
17 with the law, and we provided them with an
18 opportunity to respond.

19 Q. Okay. And what was expected from their
20 responses?

21 A. Additional information so that the BOOST

1 Commission could make a fair and equitable
2 decision.

3 Q. Okay. And were schools given the
4 opportunity to change the language in their
5 handbooks?

6 A. I don't know that we foresaw that. I
7 don't know that we foresaw that or even demanded
8 it, but some schools did.

9 Q. Okay. And why did those schools revise
10 their handbook language?

11 MR. SCOTT: Objection.

12 THE WITNESS: I can't speak to the
13 schools' intent, but certainly they were being
14 funded to support students some of whom were
15 currently or previously enrolled so I'm sure that
16 they wanted, you know, to be in compliance to
17 continue to receive BOOST funding.

18 BY MR. SCHMITT:

19 Q. Okay. And could they receive BOOST
20 funding if they changed their handbook language?
21 Could they continue to receive BOOST funding if

1 they changed their handbook language?

2 MR. SCOTT: Objection to form.

3 THE WITNESS: We made -- we were making
4 determinations about that on a case-by-case basis.

5 BY MR. SCHMITT:

6 Q. Okay. So if we look at Exhibit 47
7 again -- let's see there. Okay. Do you see how in
8 here it says revised?

9 A. Yes.

10 Q. Does that reflect changes to schools'
11 handbook language?

12 A. Yes.

13 Q. Okay. So this document would have been
14 prepared obviously then after Trinity Lutheran had
15 been found ineligible and then revised its
16 handbook?

17 A. Yes.

18 Q. Let me take a look. Do we have that one?
19 Sorry. Beth, do you remember we were talking about
20 the three categories identified in the January
21 legal memo?

1 A. Yes.

2 Q. And presumably also in other versions of
3 the memo that had been given to you for your
4 review. Do you remember the second category? I
5 can pull it up, if it's helpful.

6 A. It would be.

7 Q. Okay. Let me see here. I'll just scroll
8 down to it and let me share. Okay. Do you see the
9 second category?

10 A. I'm looking at a BOOST handbook decision
11 Excel spreadsheet.

12 Q. Oops. That's not the -- that's not the
13 exhibit. Hang on. Let me try again. There we go.

14 A. Yes.

15 Q. Okay. How about this category?

16 A. Yes.

17 Q. Good. All right. So this category talks
18 about schools that refuse admission based on
19 sexual misconduct; is that correct?

20 A. Yes.

21 Q. Okay. Why was sexual misconduct flagged

1 as a potentially discriminatory basis for -- or why
2 was the phrase sexual misconduct flagged as
3 language that was potentially discriminatory?

4 MR. SCOTT: Objection.

5 MR. SCHMITT: You -- you can answer, if
6 you know.

7 THE WITNESS: Okay.

8 BY MR. SCHMITT:

9 Q. Yeah.

10 A. I believe because of the second -- what
11 the second sentence in this memo states, "While
12 this policy applies to some heterosexual conduct,
13 it applies to any homosexual contact, which means
14 that admission may be denied on the basis of sexual
15 orientation." It was because of that link, if you
16 will.

17 Q. Okay. How would that -- did the Board
18 consider -- when it was debating questions of
19 sexual misconduct, did the Board consider the grade
20 levels of the schools involved?

21 A. I don't believe so.

1 Q. Okay. So like if that was a kindergarten
2 through six grade or eight grade, that would not
3 have been formed the way that the Board read the
4 student handbook?

5 A. No.

6 Q. Okay. So if -- if a student handbook or
7 a parent-student handbook had any mention to -- any
8 mention of human sexuality or sexual orientation,
9 was that grounds to get flagged for further review?

10 A. Can --

11 MR. SCOTT: Objection.

12 THE WITNESS: Can you ask that question
13 again, please?

14 MR. SCHMITT: Sure.

15 BY MR. SCHMITT:

16 Q. Were there schools to your knowledge --
17 I'll rephrase. Were there schools to your
18 knowledge that mention either beliefs on marriage
19 and how it was oriented or sexual orientation that
20 did not get further review from the MSDE or the
21 BOOST Board?

1 A. Were there schools that -- again, I'm not
2 following your -- your train of thought.

3 Q. Sure. Sure. Sure. So because -- so the
4 last thing we just looked at got flagged for sexual
5 misconduct, which was anything that was not marital
6 and also it says in the memo that was identified
7 specifically as -- as homosexual, so nonmarital and
8 homosexual. So if a school had language in its
9 handbook -- let me rephrase.

10 To your knowledge, were there schools
11 that listed a belief on marriage that did not get a
12 further review by the BOOST Board or the MSDE?

13 A. We only reviewed schools that were
14 brought to our attention.

15 Q. Okay. And do you know whether or not the
16 MSDE used this -- used that memorandum that we just
17 looked at, Exhibit 33? Do you know whether they
18 used that memorandum in their initial screening?

19 A. To my knowledge there was no initial
20 screening. The school signed assurance letters so
21 they self-screened.

1 Q. Right. Right. I'm saying when -- when
2 the MSDE reviewed handbook language to bring it to
3 your attention, do you know whether or not they
4 used that memorandum --

5 A. I don't know.

6 Q. -- guideline? You don't know. Okay. Do
7 you know anything about the process they used in
8 determining which schools got brought to your
9 attention or not?

10 A. I do not know.

11 Q. Okay. Sorry. Give me just a second here
12 while I get my act together. Okay. I'm going to
13 try to -- it may be, because this was a couple of
14 years ago now, hard to remember, but I want to ask
15 some questions, Beth, if it's okay, about your
16 memory of the specific decision regarding Bethel
17 and the circumstances involved there. So do you
18 remember when the BOOST Board decided to deem
19 Bethel ineligible for BOOST?

20 A. I do not.

21 Q. Okay. Do you remember it was probably

1 2018 or not?

2 A. Yes, I believe so. Sometime in 2018.

3 Q. Okay. I want to show you -- sorry --
4 another document here. You remember you were on
5 the BOOST Board, right, when that determination was
6 made?

7 A. Yes, I was.

8 Q. Okay. What was this again? Okay. So
9 I'm going to call this Exhibit 45. Let me share
10 here hopefully the right screen this time.

11 (Whereupon, 2021.01.13 Analysis Summary
12 of Bethel's compliance with assurances was entered
13 as Exhibit No. 45 by counsel in Exhibit Share.)

14 BY MR. SCHMITT:

15 Q. Okay. Do you see this?

16 A. Yes.

17 Q. Okay. Do you see I've marked it Exhibit
18 45 here and it's got a Bates stamp Bethel
19 Defendant's 2509?

20 A. Yes.

21 Q. Okay. Do you recognize this?

1 A. Give me a moment.

2 (Whereupon, a brief pause was taken for
3 document examination.)

4 A. Yes.

5 Q. Okay. What is this document?

6 A. This is a document that I believe was
7 included in the decision that we made and
8 communicating that to the school.

9 Q. Okay. Who prepared this document, do you
10 know?

11 A. I don't.

12 Q. Okay. Was this document given to you at
13 any point when you were making your determination
14 of Bethel's status?

15 A. I don't believe so. We -- I believe we
16 just reviewed the handbook language and had a
17 conversation about that and their responses.

18 Q. Okay. And it says -- can you read that
19 first sentence at the top?

20 A. "Based on our review, Bethel Christian
21 Academy appears to be in conflict with the

1 following nonpublic student textbook program
2 requirements."

3 Q. Okay. And who would the our be in the
4 phrase "based on our review"?

5 A. It would have been whoever addressed the
6 correspondence to Bethel, but I believe it would
7 have been our counsel, Liz Kameen, and the BOOST
8 Commission.

9 Q. Okay. Okay. Great. Thank you.
10 Okay. So -- let me see if I can find the right
11 thing here. Okay. I'm going to share. It's not
12 marked Exhibit 36 right now, but I will mark it
13 Exhibit 36 and publish it.

14 (Whereupon, 2018.06.21 BOOST Board
15 Summary of Decisions votes to expel Bethel based on
16 handbook, Bethel Defendants 2333 was entered as
17 Exhibit No. 36 by counsel in Exhibit Share.)

18 BY MR. SCHMITT:

19 Q. Okay. Do you see this document?

20 A. Yes.

21 Q. And we reviewed a similar one earlier I

1 believe, correct?

2 A. Yes, it's a summary.

3 Q. Summary of Decisions?

4 A. Correct.

5 Q. Okay. What -- what meeting is it from?

6 A. June 21, 2018.

7 Q. Okay. And this document has a Bates
8 stamp Bethel Defendants 2333. I want to direct
9 your attention down to bullet number three. Do you
10 see that?

11 A. I do.

12 Q. Okay. Can you go through sub-bullet A
13 for me?

14 A. Sure. "The BOOST law includes
15 nondiscrimination requirements related to student
16 admissions for participating schools. Several
17 schools have been found to be ineligible for the
18 program based on language in their student
19 handbooks that was deemed discriminatory.

20 Prior to its June 21st, 2018 meeting the
21 Board received requests for reconsideration from

1 two schools that had been deemed ineligible,
2 Broadfording Christian Academy-Hagerstown and Grace
3 Academy-Hagerstown.

4 Also, as of June 21st, 2018 there were
5 two schools still under review as far as compliance
6 with the nondiscrimination requirements, Bethel
7 Christian Academy-Savage and Woodstream Christian
8 Academy-Mitchellville."

9 Q. Okay. So let's go down to B then. What
10 happened in subsection B?

11 A. "The BOOST Board went into closed session
12 at approximately 3:25 p.m. to receive legal advice
13 on the nondiscrimination requirements of the BOOST
14 law."

15 Q. Okay. I want to ask you about
16 that. Have -- do you recall how often when you
17 were on the Board the Board would go into closed
18 session?

19 A. Very occasionally.

20 Q. Very occasionally. So not frequently?

21 A. Not frequently.

1 Q. Okay. Do you recall the first time when
2 the Board went into a closed session?

3 A. I do not.

4 Q. Is it possible that this could have been
5 the first occasion that you went into closed
6 session?

7 A. I don't recall.

8 Q. Okay. So you are presented with Bethel's
9 handbook language at the meeting where you
10 determine its fate in the program, is that correct,
11 like someone gives you a sheet we discussed earlier
12 with the different schools' handbook language or a
13 similar -- similar document?

14 MR. SCOTT: Objection.

15 THE WITNESS: Yes, we reviewed that
16 language.

17 BY MR. SCHMITT:

18 Q. Okay. Do you recall any discussion that
19 occurred regarding Bethel's handbook language?

20 A. At this -- at this meeting in the closed
21 session?

1 Q. Well, just generally in the June 21st,
2 2018 meeting.

3 A. We had a general conversation about it.

4 Q. Okay. Do you remember whether you shared
5 any thoughts or opinions about Bethel's handbook
6 language at the meeting?

7 MR. SCOTT: I'm -- I'm just going to
8 caution the witness not to disclose what took place
9 in the closed session, but if she can talk about
10 what she may have said in the open session, she can
11 answer.

12 THE WITNESS: I don't recall whether I
13 had specific comments at that specific meeting
14 regarding it, no.

15 BY MR. SCHMITT:

16 Q. Okay. Okay. Then, if we move down to
17 subsection C, what happens then?

18 A. We came back into open session and
19 unanimously decided that Broadfording Christian
20 Academy was eligible and that Grace had submitted a
21 student handbook with the revisions that we felt

1 met the policy and we unanimously decided that the
2 school was eligible to participate. And then we
3 unanimously decided that Bethel Christian Academy
4 and Woodstream were not eligible.

5 Q. Okay. It says here that the Board
6 unanimously made those decisions; is -- is that
7 correct?

8 A. Yes.

9 Q. Do you recall having any reservations
10 about the decisions that you were making?

11 A. No, we didn't. I do not.

12 Q. Do you recall any other board members
13 voicing any reservations about the decisions?

14 A. I do not.

15 Q. Okay. Did the Board consider what the
16 consequences would be for the schools that were
17 deemed ineligible when it factored in its decision?

18 A. Absolutely.

19 Q. Okay. Did the Board review the award
20 amounts that the schools had received prior to
21 making its decision?

1 A. I don't remember whether we reviewed them
2 prior, but we were aware of -- we were aware of the
3 amounts the school had received --

4 Q. Okay.

5 A. -- schools had received.

6 Q. Okay. So in some cases were you aware or
7 did you have the impression that the loss of some
8 of those funds would be a significant -- have a
9 significant impact on the schools when they were
10 disqualified?

11 MR. SCOTT: Objection; asked and
12 answered.

13 MR. SCHMITT: You can answer.

14 THE WITNESS: I -- I recall that that's
15 -- you know, that was the difficult part of our
16 decision in some ways because schools are not --
17 you know, most private schools in the state are not
18 flush with money and, you know, these decisions are
19 hard to come to because they do involve
20 institutions that may suffer some financial loss as
21 a consequence of the decision, but we had to -- the

1 Board was unanimous in its decision because we had
2 -- we are charged with carrying out the intention
3 of the legislation.

4 Q. Okay. So under that charge, did the
5 Board discuss whether or not -- so clearly when the
6 schools got disqualified, they couldn't continue to
7 participate in the program; is that correct?

8 A. That's correct.

9 Q. Did the Board have any conversation about
10 whether or not it could or should the phrase is
11 'claw back' awards that had already been given?

12 A. We did.

13 Q. And what did the Board decide?

14 A. My recollection is that the Board decided
15 that we had -- that we did -- that those monies did
16 have to be paid back.

17 Q. Okay. And why did the Board make that
18 determination?

19 A. Because the policies were in place at the
20 time the awards were made even though the schools
21 had signed assurances that they were not.

1 Q. Okay. Did any board member or did you
2 raise the issue that the -- these schools -- these
3 schools maintained that they signed assurances in
4 good faith?

5 A. I don't understand your question.

6 Q. So did the BOOST Board believe that the
7 schools signed the assurances in bad faith would be
8 a different way of asking it.

9 A. I can't -- I don't believe that was ever
10 discussed.

11 Q. Okay. All right.

12 MR. SCHMITT: I personally need a break I
13 think. Is that okay with you? Can we take a short
14 five-minute break?

15 THE WITNESS: Absolutely.

16 MR. SCHMITT: Okay. Sorry. I need to
17 take care of something. So maybe if it's okay,
18 guys, we'll go off the record and come back in five
19 to seven minutes?

20 VIDEOGRAPHER: Going off the record. The
21 time is 11:24 a.m.

1 (Whereupon, a brief recess was taken.)

2 VIDEOGRAPHER: We're back on the record.
3 The time is 11:44 a.m. This is media number two.

4 BY MR. SCHMITT:

5 Q. Great. Thank you, Beth, for your
6 patience. I don't intend to keep you too terribly
7 much longer. I just want to go over a few things
8 that I should have asked about earlier, but I
9 forgot.

10 I'm going to show you an exhibit that I
11 have marked as 11. Let see here. Sorry. My
12 calendar is going crazy.

13 (Whereupon, 2018.3.13 Bethel Assurances
14 Letter to Kearns was entered as Exhibit No. 11 by
15 counsel in Exhibit Share.)

16 BY MR. SCHMITT:

17 Q. Let's see here. Share. Okay. All
18 right. So I've marked this as Exhibit 11. It's
19 got a -- that sticker is not helpfully placed.
20 It's got a Bates number of 0069 at the top. Do you
21 see this?

1 A. Yes.

2 Q. Okay. Have you ever seen this before?

3 A. I'm not sure.

4 Q. Okay. Okay. If you want to take just a
5 second to kind of take a look at it and see if it
6 rings a bell.

7 A. Yes.

8 (Whereupon, a brief pause was taken for
9 document examination.)

10 A. Can you scroll down for me?

11 Q. Sure.

12 A. Yes, I believe we saw this document.

13 Q. Okay. And what is it?

14 A. It's a letter from Bethel Christian
15 Academy in response to our inquiry.

16 Q. Good. That's what I think it is,
17 too. It says here in the second half -- so do you
18 see this document kind of explains and identifies
19 Bethel's statement of nondiscrimination and then it
20 identifies the other portion of its handbook
21 language that you discussed earlier about marriage

1 being defined as a covenant between one man and one
2 woman?

3 A. Yes.

4 Q. And then you see further down in the
5 letter an explanation of how Bethel interprets its
6 handbook?

7 A. Yes.

8 Q. Okay. Do you see -- could you read from
9 this not quite the last, not quite the penultimate,
10 but this larger paragraph toward the bottom just
11 starting with Bethel Christian Academy right here?

12 A. "Bethel Christian Academy does not ask
13 any questions about sexual orientation at all
14 during the admissions process and is willing to
15 enroll any student who meets the academic criteria
16 and whose past school conduct has not been
17 demonstratively -- demonstrably disruptive in a
18 previous school.

19 Once a student is admitted, he/she is
20 expected to comply with behavioral expectations and
21 is subject to disciplinary action for violation of

1 those behavioral standards, including engaging in
2 sexual behavior of any type, whether heterosexual
3 or homosexual."

4 Q. Okay. So based on that language that
5 Ms. Dant shared with Ms. Kearns and therefore the
6 Board through her, do you believe that Bethel's --
7 Bethel views its policy as discriminatory?

8 MR. SCOTT: Objection.

9 THE WITNESS: I don't believe --

10 MR. SCOTT: Go ahead.

11 THE WITNESS: I don't believe they view
12 their policy as discriminatory, but the BOOST
13 Commission did.

14 BY MR. SCHMITT:

15 Q. And you did?

16 A. Yes.

17 Q. Okay. What did you make of this
18 statement when you read it?

19 A. They basically reiterate the language
20 accurately as it's written in their handbook and
21 they talk about specifically -- they talk

1 specifically about the admission process.

2 What -- what is the elephant in the room
3 here, if you will, is that it goes back to
4 something you asked me earlier which I kind of
5 wanted to add onto. No, a kindergartner cannot be
6 married, but a kindergartner has parents or they
7 have relatives or they may have family members who
8 are same sex couples.

9 And if I walk into Bethel's admission
10 office and I'm with the same gender spouse, their
11 policy gives them the opportunity to deny my
12 admission because I am clearly in violation of what
13 they consider appropriate to admit.

14 Q. How do you know that?

15 A. I don't know that, but the language would
16 lead us -- we could only base -- we could only base
17 our decision on what the language says.

18 Q. Okay. So did you know whether or not
19 Bethel has or had had in the past any families
20 where the parents are in a same sex relationship?

21 A. I do not know that.

1 Q. So did you conjecture that statement from
2 -- that you just said from your reading of the
3 handbook?

4 MR. SCOTT: Objection.

5 THE WITNESS: As we sat and had
6 conversation in the BOOST Commission, we certainly
7 discussed the practical implication -- the
8 practical implications of language, whether it was
9 language that was left out in this case about not
10 discriminating against sexual orientation.

11 BY MR. SCHMITT:

12 Q. Is it possible that a couple in a same
13 sex relationship might nonetheless send their child
14 to a school that taught that marriage was between
15 one man and one woman?

16 MR. SCOTT: Objection.

17 THE WITNESS: Is it possible that they
18 would seek admission; is that what you're asking
19 me?

20 BY MR. SCHMITT:

21 Q. And would -- would desire that for their

1 child.

2 MR. SCOTT: Objection; calls for
3 speculation.

4 THE WITNESS: Yeah, I can't say that I --
5 I know whether they would or wouldn't.

6 BY MR. SCHMITT:

7 Q. Okay. But I guess my question is:
8 You're assuming that no parent in a same sex
9 relationship would want to send their kid to a
10 school that taught that marriage is between one man
11 and one woman?

12 MR. SCOTT: Objection.

13 THE WITNESS: I'm not assuming that. I
14 think parents choose schools for all different
15 reasons to meet their -- the needs of their
16 children.

17 BY MR. SCHMITT:

18 Q. Okay. Okay. So just so I'm clear,
19 because I'm a little confused about your response
20 to that question, so Bethel here says that the
21 sexual orientation isn't relevant to the admissions

1 process. It says that they don't ask about it.

2 And then it says that once students in --
3 I'm paraphrasing. Once students are in, they're
4 all expected to comply with behavioral
5 expectations, which include -- which include that
6 kids not engage in any kind of sexual behavior
7 regardless of whether it's heterosexual or
8 homosexual.

9 So I guess my question to you is: She
10 says -- Claire Dant here says that sexual
11 orientation just isn't a factor. Did you not
12 believe the assurance?

13 A. It's not included as a factor in their
14 language. So race is included as a factor in their
15 language. If they don't -- they say overtly in
16 their statement they don't discriminate based on
17 race. If they don't discriminate based on sexual
18 orientation, we didn't understand why that was not
19 part of the language included in their handbook.

20 Q. Okay. Are you familiar with what types
21 of nondiscrimination assurances are required by

1 federal law?

2 A. Somewhat.

3 Q. Okay. In 2018 was sexual orientation
4 among the categories that were required by federal
5 law in nondiscrimination statements?

6 MR. SCOTT: Objection.

7 THE WITNESS: I don't know.

8 BY MR. SCHMITT:

9 Q. Okay. So would have -- if Bethel had
10 included sexual orientation among the categories
11 that it -- in its nondiscrimination statement,
12 would you have let them in --

13 MR. SCOTT: Objection --

14 MR. SCHMITT: -- or do you -- would you
15 have found them to be eligible for BOOST?

16 MR. SCOTT: Objection.

17 MR. SCHMITT: What grounds, Rob?

18 MR. SCOTT: Calls for speculation;
19 hypothetical.

20 MR. SCHMITT: I'm asking -- I'm asking
21 her how she would have applied the policy or how

1 the policy would have been applied.

2 MR. SCOTT: And my objection stands.

3 MR. SCHMITT: Okay.

4 MR. SCOTT: You can answer, if you can.

5 THE WITNESS: What I would say is that
6 our focus as a Commission was to -- to really make
7 sure that we applied the same standard to every
8 school we looked at.

9 There -- it was -- I like to say I -- we
10 wore gray lenses, right. We didn't see black and
11 white. It's like let's look at the policy. Let's
12 make a determination whether this meets the statute
13 -- whether this meets the requirement or not and
14 we -- we looked at all of the schools that we
15 reviewed equally.

16 BY MR. SCHMITT:

17 Q. Did all of the schools that were approved
18 to participate in BOOST include sexual orientation
19 in their nondiscrimination statements in their
20 handbooks?

21 A. I don't recall, but I do know that the

1 schools that we reviewed where we -- where we
2 reviewed and allowed them to continue to receive
3 funding made changes in their language, if we found
4 it to be discriminatory.

5 Q. Okay. So you don't know whether it was a
6 requirement from the -- the Board didn't have that
7 as a requirement, that sexual orientation had to be
8 listed in their handbook as a category that they
9 wouldn't discriminate on?

10 A. I don't recall.

11 Q. Okay. Okay. Let me -- let's try this
12 and see if it works. Okay. I've also marked
13 another sheet as Exhibit 14.

14 (Whereupon, Bethel Statement to BOOST
15 Board was entered as Exhibit No. 14 by counsel in
16 Exhibit Share.)

17 BY MR. SCHMITT:

18 Q. And do you recognize this?

19 A. I do.

20 Q. Okay. It's got plaintiff MPIs Exhibit 4.
21 It's a Bates stamp of 0072. What is this document?

1 A. This is A Statement to the BOOST Advisory
2 Board by Claire Dant On Behalf of Bethel Christian
3 Academy.

4 Q. Do you recall receiving this?

5 A. I do -- I believe I received this, yes.

6 Q. Okay. Do you recall considering this
7 when you made your determination about Bethel's
8 eligibility?

9 A. I don't recall.

10 Q. Okay.

11 A. Let me take a look for a minute. Yes, I
12 do believe we reviewed this.

13 Q. Okay. So I'm just going to read part of
14 the second paragraph. She says that Bethel starts
15 in 1985 and it's got an open -- and I'm
16 paraphrasing -- an open enrollment policy, which
17 means it's not what they call like a covenant
18 school where everybody has got to be a member of
19 whatever church, right. It's an all comers policy
20 as far as admission.

21 And then I'm going to quote, "Any student

1 who can meet our academic standards and is likely
2 to thrive in our structured environment is welcome
3 to join our school community regardless of
4 religious beliefs or sexual orientation. We do not
5 discriminate in admissions." Is that correct?

6 A. That's what it says, yes.

7 Q. Okay. Did the BOOST Board -- did you not
8 -- did you personally not believe that assurance by
9 Ms. Dant?

10 A. I think what I believe is irrelevant. I
11 think what we considered as a board is if this was
12 the case, again, why wasn't sexual orientation
13 included in their nondiscriminatory statement.

14 Q. Okay. Okay. Let's see. I think I'm
15 done with that. Let me see. I think I had just a
16 couple other cleanup things. Let's see. Do you
17 remember ever interacting with any members of the
18 media or reporters or anybody regarding the
19 nondiscrimination issues in the BOOST program?

20 A. I did not interact with any reporters
21 regarding this issue or any other BOOST issue.

1 Q. Okay. Do you recall other members of the
2 BOOST Board interacting with the media?

3 A. Not that I recall.

4 Q. Okay. Let's see. There's one more
5 exhibit I want to put up there. When -- did you
6 ever interact with BOOST schools personally when
7 you were trying -- when you served on the BOOST
8 Board?

9 A. In my capacity as someone serving on
10 BOOST?

11 Q. Mm-hmm.

12 A. No.

13 Q. So if when you were going through like
14 the assurance problem or anything like that, you
15 personally didn't work with any of the schools;
16 that was all MSDE staff?

17 A. I did not.

18 Q. Do you know if any of the other members
19 of the BOOST Board personally dealt with any of the
20 participating schools or was that all delegated out
21 to the MSDE?

1 A. I believe that was all delegated to MSDE.

2 Q. Okay. I'm sorry. I'm having an issue
3 here. Let's see. Where did that go? I'm going to
4 introduce an exhibit which I will mark

5 50. Okay. And I will share. Once it loads here.

6 (Whereupon, 2018.07.05 Harbinson-
7 Gallagher email thread on issues with Cathedral
8 scholarships was entered as Exhibit No. 50 by
9 counsel in Exhibit Share.)

10 BY MR. SCHMITT:

11 Q. Okay. So I've pulled up an email chain
12 here. Do you recognize this?

13 A. Yes.

14 Q. Okay. You see I've marked it Exhibit 50?
15 It's got a Bates stamp of Bethel-Gallagher 1136 on
16 it.

17 A. Yes.

18 Q. Okay. This email is from you at the top;
19 is that correct?

20 A. Yes.

21 Q. And this would have been when, July 5th

1 of 2018?

2 A. Correct.

3 Q. So this would have been probably a couple
4 weeks after Bethel was deemed ineligible from
5 BOOST?

6 A. That's correct. I guess. It doesn't
7 have any relationship to this memo.

8 Q. Sure. Can you just take a minute and if
9 you want to read through this, if that helps, and
10 just kind of refresh your memory on what it's
11 discussing.

12 A. Yes. Thank you. Hang on.

13 (Whereupon, a brief pause was taken for
14 document examination.)

15 A. Yes, I remember this now.

16 Q. Okay. So how -- what exactly are we
17 looking at here? Can you walk me through what this
18 issue was?

19 A. Sure. So several of the -- so we run a
20 scholarship program for low income students K
21 through eighth at Childrens Scholarship Fund

1 Baltimore and one of our parents, Ms. Johnson,
2 reached out to my program administrator to say that
3 she had been told by a school that she could not
4 receive both BOOST funds and CSFB scholarship funds
5 and we were advocating on her behalf to find out
6 why that was the case, because many of our students
7 get funding from BOOST as well as from -- from us.

8 And I was inquiring to Monica and Matt
9 about -- about that to make sure that there wasn't
10 some disconnect between BOOST and the schools or a
11 school administrator more likely misrepresenting,
12 you know, who could or could not receive BOOST
13 funding.

14 Q. So if individuals brought an issue to
15 you, a BOOST issue to you, would you then intervene
16 and kind of help navigate that for them?

17 A. Where I felt the parent was getting
18 misinformation, yes.

19 Q. Okay. Great. Okay. And with respect to
20 that situation, did you have any communications or
21 follow-up communication with the school involved?

1 A. I did not. I left that up to MSDE.

2 Q. Okay. Let me see here. All right. I
3 think I'm almost done. Sorry. We're wrapping this
4 up here. Where did that go?

5 Do you remember, Beth, we were talking
6 about the June 21st meeting where the Board made
7 its determination on Bethel?

8 A. Yes.

9 Q. Okay. We talked about the BOOST Board
10 adjourned and went into closed session and you told
11 me that you received legal advice in closed
12 session.

13 A. Yes.

14 Q. Did you or the Board engage in any
15 deliberation about Bethel during closed session?

16 A. I believe so.

17 Q. Okay. Did you discuss the reasons for
18 Bethel's disqualification during that time?

19 MR. SCOTT: I'm just going to caution the
20 witness to not disclose any legal advice that was
21 given during closed session or any communications

1 from board members designed to seek legal advice
2 from the Office of the Attorney General during the
3 closed session.

4 THE WITNESS: I don't recall what was
5 discussed in closed session versus open
6 session. That was the topic in general that we
7 were discussing at that meeting.

8 BY MR. SCHMITT:

9 Q. But you do recall discussing it?

10 A. At that meeting? At the June meeting?

11 Q. Mm-hmm.

12 A. Yes.

13 Q. Okay. So you mentioned at the beginning
14 that you had some documents with you that you
15 brought to review today. Could you walk me through
16 what each one of those documents are?

17 A. Yeah. The only one that I printed out
18 and brought today was a -- our advisory board
19 meeting minutes from Wednesday, 21st, 2018. I
20 haven't reviewed -- looked at that document today,
21 but I did print it out, because I'm a tactile

1 person, and reviewed it prior to the deposition.

2 Q. I'm the same way, which is why I'm
3 surrounded by mountains of paper. Did you have any
4 personal notes or anything written on that?

5 A. No.

6 Q. Are there any other documents that you've
7 got maybe not tactile, physical in front of you,
8 but maybe on your screen or open or anything like
9 that?

10 A. There are not.

11 Q. Okay. All right. Let me see if I've got
12 anything else. Okay. Have you ever personally
13 spoken with anybody at Bethel?

14 A. No.

15 Q. So you've not -- have you personally --
16 (Interruption.)

17 Q. Oh, sorry. Have you ever personally had
18 any communication with any of the schools that got
19 flagged for handbook review for the
20 nondiscrimination stuff?

21 A. No, I have not.

1 Q. Okay. Had you ever spoken with anyone
2 from an outside organization about the
3 nondiscrimination issue, like maybe the ACLU or
4 similar entity?

5 A. No, I did not.

6 Q. And then as far as your preparations for
7 today, aside from talking to your legal counsel,
8 have you spoken with anybody from MSDE or the BOOST
9 Board about taking these depositions -- depositions
10 or your preparation for them?

11 A. I have -- there is another member of the
12 BOOST Board who serves on my board. She is on our
13 executive committee and I may have mentioned in an
14 executive committee meeting last week that I would
15 be out of the office today for a deposition, but
16 she didn't comment on that or mention that she was
17 being deposed.

18 It was more me informing my employer, who
19 is my executive committee, that I would be out of
20 the office for part of today in this regard.

21 Q. Right. Okay. And again, you told me you

1 hadn't had any communications with any media
2 members?

3 A. I have not.

4 Q. Okay. Do you know anybody in the media,
5 anybody at the Baltimore Sun or anyone else?

6 A. I read it, but I don't know anyone there
7 personally.

8 Q. Good. Good. Okay. All right. I think
9 the last thing I want to hit is you talked about
10 earlier how people came onto the BOOST Board and --
11 were you appointed by Governor Hogan?

12 A. Yes, I believe so.

13 Q. How were you made aware of your
14 appointment?

15 A. I believe one of our donors may have
16 contacted me to say that he had recommended my
17 nomination because of my experience in education in
18 Baltimore.

19 Q. Right. Yeah, several of your board
20 members are fairly well-established in the
21 education community based on what I have seen.

1 Did you or have you since -- I mean, I
2 know you're off the Board now, but in the time from
3 when you were appointed to when you left, did you
4 ever have any kind of communications with anyone
5 from Governor Hogan's office?

6 A. I did not.

7 Q. Anyone from the House Speaker's Office or
8 the Senate President's office?

9 A. I did not.

10 MR. SCHMITT: Okay. I think I'm wrapped
11 up here.

12 MR. SCOTT: Okay. We we'll read and sign
13 the deposition transcript. I don't have any
14 questions so... Beth, I will get you -- we'll --
15 you will have an opportunity to read the transcript
16 and sign it and I will facilitate that for you.

17 THE WITNESS: Okay.

18 MR. SCOTT: So you're done for today.
19 Thank you very much.

20 THE WITNESS: Great. Thank you.

21 MR. SCHMITT: Beth, thank you so much for

1 your time and God Bless you.

2 THE WITNESS: Thank you, Paul. Thanks
3 everyone.

4 MR. SCHMITT: Yup. Have a good one. So
5 We just keep this link up for the next session at
6 1:30, right?

7 VIDEOGRAPHER: Yes. We're going off the
8 record. The time is 12:15 p.m.

9 (Whereupon, having not waived reading and
10 signing, the videotaped remote examination of BETH
11 HARBINSON concluded at 12:15 p.m.)

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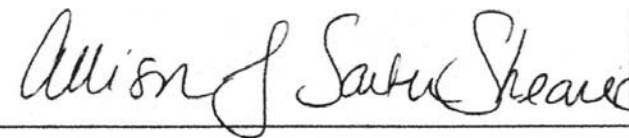
21

1 STATE OF MARYLAND)
2 COUNTY OF BALTIMORE) SS

3 I, Allison L. Shearer, a Notary Public of
4 the State of Maryland, do hereby certify that the
5 within named Deponent, personally appeared before
6 me at the time and place herein set out, and after
7 having been duly sworn remotely by me, was
8 interrogated by counsel.

9 I further certify that the examination
10 was recorded stenographically by me via Zoom and
11 that this transcript is a true record of the
12 proceedings.

13 I further certify that I am not of
14 counsel to any of the parties, nor an employee of
15 counsel, nor related to any of the parties, nor in
16 any way interested in the outcome of this action.
17 as witness my hand and notarial seal this 22nd day
18 of April, 2021.

19 
20

Allison L. Shearer, Notary Public
21 My Commission Expires March 18, 2022

[002 - add]

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[additional - attention]

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate.

The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

Veritext Legal Solutions is committed to maintaining the confidentiality of client and witness information, in accordance with the regulations promulgated under the Health Insurance Portability and Accountability Act (HIPAA), as amended with respect to protected health information and the Gramm-Leach-Bliley Act, as amended, with respect to Personally Identifiable Information (PII). Physical transcripts and exhibits are managed under strict facility and personnel access controls. Electronic files of documents are stored in encrypted form and are transmitted in an encrypted fashion to authenticated parties who are permitted to access the material. Our data is hosted in a Tier 4 SSAE 16 certified facility.

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EXHIBIT 11

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

BETHEL MINISTRIES, INC.,

*

,

*

v.

*

No. 1:19-cv-01853-SAG

DR. KAREN B. SALMON,

*

,

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* * * * *

**DEFENDANTS’ RESPONSES TO PLAINTIFF’S FIRST SET OF REQUESTS
FOR ADMISSION TO DEFENDANTS**

Defendants, State Superintendent Dr. Karen B. Salmon; Matthew Gallagher, Chairman of the Broadening Options and Opportunities for Students Today (“BOOST”) Advisory Board; and BOOST Advisory Board members Marva Jo Camp, Linda Eberhart, Dr. Nancy S. Grasmick, Elizabeth Green, Beth Sandbower Harbinson, and Dr. A. Skipp Sanders, pursuant to Federal Rule of Civil Procedure 36 and Local Rule 104, respond to the First Set of Requests for Admission propounded by Plaintiff Bethel Ministries, Inc. as follows:

PRELIMINARY STATEMENT AND GENERAL OBJECTIONS

1. The language, word usage, and sentence structure in these answers may be that of the attorney who assisted in the preparation of these answers and do not necessarily purport to be the exact language of the executing party.

2. The requests for admissions have been interpreted and answered according to the Federal Rules of Civil Procedure (“Rules”), the Court’s Local Rules, plain English

usage, and any definitions and instructions in the interrogatories unless specifically challenged by objection.

3. The defendants object to the requests to the extent they seek information subject to the attorney-client privilege, the work-product doctrine, the deliberative-process privilege, the executive privilege, the legislative privilege, or any other privilege, including information prepared in anticipation of litigation.

4. The defendants object to the requests to the extent that they seek information that is confidential, proprietary, a trade secret, or subject to privacy restrictions.

5. The defendants object to the requests to the extent that they purport to require the provision of information and/or documents not in the possession, custody, or control of the defendants.

6. The defendants object to the requests to the extent that under Rule 26(b), they are not relevant to any party's claim or defense or not proportional to the needs of the case.

7. The defendants object to the requests and their definitions and instructions to the extent that they impose duties that exceed those required by the Rules and the Local Rules.

8. The defendants object to the requests to the extent that they are vague, ambiguous, overly broad, unlimited in time, duplicative, or cumulative.

9. The defendants reserve the right to supplement, amend, or correct the responses to these requests.

10. The defendants do not waive any protections or privileges by responding to these requests. The inadvertent production or disclosure of protected or privileged

information shall not constitute a waiver of any privilege or any other basis to object to the admissibility of such information into evidence.

11. The defendants adopt and incorporate by reference the preliminary statement and general objections into each of the following responses.

12. Subject to and without waiving the foregoing preliminary statement and objections, defendants respond to the requests as follows.

RESPONSES TO REQUESTS FOR ADMISSION

REQUEST FOR ADMISSION NO. 1: Admit that all schools removed from the BOOST program due to alleged noncompliance with the program's nondiscrimination requirement were Christian schools.

RESPONSE: The defendants object to this request on the ground that the terms "removed" and "Christian schools" are undefined, vague, and ambiguous. Without waiving these objections, defendants deny that MSDE flagged school handbooks for further review based on their religious beliefs and/or their status as Christian. Without waiving these objections, defendants admit that several schools voluntarily withdrew from BOOST because they did not agree with the BOOST nondiscrimination requirements. Also without waiving their objections, defendants admit that all of the schools initially deemed ineligible for the 2017-18 school year due to noncompliance with the BOOST nondiscrimination requirement happened to identify as Christian. However, the decision to declare these schools ineligible was not based on the schools' stated religious beliefs or their status as Christian, but rather on their admissions, conduct and disciplinary policies. Of the schools initially declared ineligible for the 2017-18 school year, six eventually came into compliance and were readmitted to the program. Defendants further state that the vast

majority of Christian schools that received BOOST funding had no difficulty complying with the non-discrimination requirement.

REQUEST FOR ADMISSION NO. 2: Admit that all schools whose handbooks were flagged during the handbook review process by the MSDE staff for further review were Christian schools.

RESPONSE: The defendants object to this request on the ground that the terms “Christian schools” is undefined, vague, and ambiguous. Without waiving this objection, defendants deny that MSDE flagged school handbooks for further review based on their religious beliefs and/or their status as Christian. Also without waiving their objections, defendants admit that all of the schools initially deemed ineligible for the 2017-18 school year due to noncompliance with the BOOST nondiscrimination requirement happened to identify as Christian. However, the decision to declare these schools ineligible was not based on the schools’ stated religious beliefs or their status as Christian, but rather on their admissions, conduct and disciplinary policies.

REQUEST FOR ADMISSION NO. 3: Admit that the BOOST Board only reviewed handbook language flagged for review by the MSDE staff.

RESPONSE: Defendants object to this request on the ground that it does not provide a time frame and is therefore overly broad and seeks irrelevant information not proportional to the needs of the case. Without waiving their objections, defendants deny this request.

REQUEST FOR ADMISSION NO. 4: Admit that when reviewing flagged handbook language, the BOOST Board did not review the schools’ handbooks in their entirety.

RESPONSE: Admitted.

REQUEST FOR ADMISSION NO. 5: Admit that the MSDE staff did not flag the handbooks or documents of Jewish schools for further review.

RESPONSE: Defendants deny that MSDE's decision as to whether to flag school handbooks for further review was based on the schools' religious beliefs and/or their affiliation with a particular religion. The decision to flag a school's handbook for further review was based on their admissions, conduct and disciplinary policies. Subject to the foregoing, defendants admit that MSDE staff did not flag for further review the handbooks of any Jewish schools during the 2017-18 school year.

REQUEST FOR ADMISSION NO. 6: Admit that the MSDE staff did not flag the handbooks or documents of Muslim schools for further review.

RESPONSE: Defendants deny that MSDE's decision as to whether to flag school handbooks for further review was based on the schools' religious beliefs and/or their affiliation with a particular religion. The decision to flag a school's handbook for further review was based on their admissions, conduct and disciplinary policies. Subject to the foregoing, defendants admit that MSDE staff did not flag for further review the handbooks of any Muslim schools during the 2017-18 school year.

REQUEST FOR ADMISSION NO. 7: Admit that the MSDE staff did not flag the handbooks or documents of secular private schools for further review.

RESPONSE: Defendants deny that MSDE's decision as to whether to flag school handbooks for further review was based on the schools' religious beliefs and/or their affiliation with a particular religion. The decision to flag a school's handbook for further review was based their admissions, conduct and disciplinary policies. Subject to

the foregoing, defendants admit that MSDE staff did not flag for further review the handbooks of any non-religious schools during the 2017-18 school year.

REQUEST FOR ADMISSION NO. 8: Admit that Bethel Christian Academy would have to change language in its handbook in order to regain access to the BOOST Program.

RESPONSE: Defendants object to this request and because it does not specify a time period, and therefore extends into the indefinite future. Defendants do not know whether the General Assembly in the future will change the law governing eligibility for the BOOST program, and therefore are unable to admit or deny this request. Without waiving their objections, defendants admit that, under the current law, Bethel's handbook language does not comply with the program's nondiscrimination requirements.

REQUEST FOR ADMISSION NO. 9: Admit that Bethel Christian Academy would have to change language in its handbook in order to regain access to the Textbooks and Technology Program.

RESPONSE: Defendants object to this request because it does not specify a time period, and therefore extends into the indefinite future. Defendants do not know whether the General Assembly in the future will change the law governing eligibility for the Textbooks and Technology program, and therefore are unable to admit or deny this request. Without waiving their objections, defendants admit that, under the current law, Bethel's handbook language does not comply with the program's nondiscrimination requirements.

REQUEST FOR ADMISSION NO. 10: Admit that the BOOST Board and MSDE never received any complaint or allegation that a BOOST participating school denied admission to or disciplined a student because of the student's sexual orientation.

RESPONSE: Defendants object to this request on the basis that “never received” is vague, ambiguous, and undefined. The Maryland Parent Teacher Association alleged in 2017 that Trinity Lutheran Christian School maintained an “open discrimination policy” in order “to refuse admission of an applicant or to discontinue enrollment of a student based on the sexual orientation of a child’s parents.” And, upon a comprehensive review of BOOST participating schools’ policies, defendants discovered several schools had discriminatory policies. Without waiving these objections, defendants admit that no person or entity has reported or complained to defendants that a school receiving BOOST scholarship funds denied admission to or disciplined a particular student because of the student’s sexual orientation.

REQUEST FOR ADMISSION NO. 11: Admit that documents produced in response to Plaintiffs’ First Set of Requests for Production are true and authentic copies of the original documents.

RESPONSE: The defendants object to this request because it is not sufficiently specific under Rule 36(a), which requires that “each matter” about which an admission is sought “must be separately stated.” Defendants further object on the ground that this request is not proportional to the needs of the case under Federal Rule of Civil Procedure 26(b)(1), and is overly broad and unduly burdensome. Defendants have produced more than 7,000 documents totaling over 54,000 pages, and it is unreasonable to seek a blanket admission with respect to all of these documents. Therefore, subject to and without waiving their objections, defendants deny this request.

REQUEST FOR ADMISSION NO. 12: Admit that documents produced in response to Plaintiffs’ First Set of Requests for Production were made at or near the time of the regularly conducted activity to which the documents pertain.

RESPONSE: The defendants object to this request because it is not sufficiently specific under Rule 36(a), which requires that “each matter must be separately stated.” Defendants further object on the ground that this request is not proportional to the needs of the case under Federal Rule of Civil Procedure 26(b)(1), and is overly broad and unduly burdensome. Defendants have produced more than 7,000 documents totaling over 54,000 pages, and it is unreasonable to seek a blanket admission with respect to all of these documents. Therefore, subject to and without waiving these objections, defendants deny this request.

REQUEST FOR ADMISSION NO. 13: Admit that documents produced in response to Plaintiffs’ First Set of Requests for Production were made by a person with knowledge of the activity to which the documents pertain or were made from information transmitted by a person with knowledge of the activity to which the documents pertain.

RESPONSE: The defendants object to this request because it is not sufficiently specific under Rule 36(a), which requires that “each matter must be separately stated.” Defendants further object on the ground that this request is not proportional to the needs of the case under Federal Rule of Civil Procedure 26(b)(1). Defendants have produced more than 7,000 documents totaling over 54,000 pages, and it is unreasonable to seek a blanket admission with respect to all of these documents. Therefore, subject to and without waiving these objections, defendants deny this request.

REQUEST FOR ADMISSION NO. 14: Admit that documents produced in response to Plaintiffs’ First Set of Requests for Production were prepared and kept by Defendants in the course of their regularly conducted activity.

RESPONSE: The defendants object to this request because it is not sufficiently specific under Rule 36(a), which requires that “each matter must be separately

stated.” Defendants further object on the ground that this request is not proportional to the needs of the case under Federal Rule of Civil Procedure 26(b)(1). Defendants have produced more than 7,000 documents totaling over 54,000 pages, and it is unreasonable to seek a blanket admission with respect to all of these documents. Therefore, subject to and without waiving these objections, defendants deny this request.

REQUEST FOR ADMISSION NO. 15: Admit that documents produced in response to Plaintiffs’ First Set of Requests for Production are records or reports of, or contain statements of, Defendants.

RESPONSE: The defendants object to this request because it is not sufficiently specific under Rule 36(a), which requires that “each matter must be separately stated.” Defendants further object on the ground that this request is not proportional to the needs of the case under Federal Rule of Civil Procedure 26(b)(1). Defendants have produced more than 7,000 documents totaling over 54,000 pages, and it is unreasonable to seek a blanket admission with respect to all of these documents. Therefore, subject to and without waiving these objections, defendants deny this request.

REQUEST FOR ADMISSION NO. 16: Admit that MSDE staff flagged Bethel’s 2017-2018 parent-student handbook for further review because it stated, in part, that Bethel believes in the biblical definition of marriage as a covenant between one man and one woman.

RESPONSE: Defendants object to this request on the ground that it is vague and ambiguous. Without waving their objections, defendants admit that staff at the Maryland State Department of Education selected Bethel’s 2017-2018 parent-student handbook for further review in part because Bethel’s admission policy stated that the students at Bethel were required to “align” their “conduct” with Bethel’s view that defined

marriage “as a covenant between one man and one woman” in order to remain enrolled at the school.

REQUEST FOR ADMISSION NO. 17: Admit that Defendants never received any complaint or allegation that a BOOST school discriminated against a student on the basis of gender identity.

RESPONSE: Defendants object to this request on the basis that “never received” is vague, ambiguous, and undefined. Without waiving this objection, defendants admit that no person or entity has reported or complained to defendants that a school receiving BOOST scholarship funds discriminated against a particular student on the basis of gender identity.

REQUEST FOR ADMISSION NO. 18: Admit that Defendants never received any complaint or allegation that a BOOST school discriminated against a student on the basis of gender expression.

RESPONSE: Defendants object to this request on the basis that “never received” is vague, ambiguous, and undefined. Without waiving this objection, defendants admit that no person or entity has reported or complained to defendants that a school receiving BOOST scholarship funds discriminated against a particular student on the basis of gender expression.

REQUEST FOR ADMISSION NO. 19: Admit that Defendants never received any complaint or allegation that Bethel discriminated against a student on the basis of sexual orientation.

RESPONSE: Defendants object to this request on the basis that “never received” is vague, ambiguous, and undefined. Bethel’s 2017-2018 admissions policy discriminates on the basis of sexual orientation. Without waiving this objection,

defendants admit that no person or entity has reported or complained to defendants that Bethel discriminated against a particular student on the basis of that student's sexual orientation.

REQUEST FOR ADMISSION NO. 20: Admit that Defendants never received any complaint or allegation that Bethel discriminated against a student on the basis of gender identity.

RESPONSE: Defendants object to this request on the basis that "never received" is vague, ambiguous, and undefined. Bethel's handbook expressly states that Bethel discriminates on the basis of gender identity. Without waiving this objection, defendants admit that no person or entity has reported or complained to defendants that Bethel discriminated against a particular student on the basis of gender identity.

REQUEST FOR ADMISSION NO. 21: Admit that Defendants never received any complaint or allegation that Bethel discriminated against a student on the basis of gender expression.

RESPONSE: Defendants object to this request on the basis that "never received" is vague, ambiguous, and undefined. Bethel's handbook expressly states that Bethel discriminates on the basis of gender expression. Without waiving this objection, defendants admit that no person or entity has reported or complained to defendants that Bethel discriminated against a particular student on the basis of gender expression.

REQUEST FOR ADMISSION NO. 22: Admit that the BOOST Advisory Board did not consider Bethel Christian Academy's 2020 re-application to the BOOST program.

RESPONSE: Defendants object to this request because it incorrectly assumes that Bethel applied for BOOST in 2020. Bethel's 2020 application was to

participate in the Aid to Nonpublic Schools program, not BOOST. Therefore, this request is denied.

BRIAN E. FROSH
Attorney General of Maryland

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rscott@oag.state.md.us

June 4, 2021

r r d

CERTIFICATE OF SERVICE

I hereby certify that on June 4, 2021, the foregoing Responses to Plaintiff's First Set of Requests for Admissions were sent by email to:

John R. Garza
GARZA LAW FIRM, P.A.
17 W. Jefferson Street
Rockville, MD 20850
jgarza@garzanet.com

David A. Cortman
ALLIANCE DEFENDING FREEDOM
1000 Hurricane Shoals Road
Suite D-1100
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DCortman@ADFlegal.org

Gregory S. Baylor
Paul D. Schmitt
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GBaylor@adflegal.org
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Ryan J. Tucker
ALLIANCE DEFENDING FREEDOM
15100 N. 90th Street
Scottsdale, AZ 85260
rtucker@adflegal.org

EXHIBIT 12

From: Boost MSDE -MSDE- <boost.msde@maryland.gov>

To: Valerie Carpenter -MSDE- <valeriej.carpenter@maryland.gov>

Subject: Donna Response to Discrimination Inquiry

Date: Fri, 5 Apr 2019 16:05:07 -0400

Inline-Images: changingMD.png

On Fri, Apr 5, 2019 at 2:45 PM Donna Gunning <donna.gunning@maryland.gov> wrote:
Mr. Cook -

The BOOST Board has not been presented with any evidence of a student being disciplined or expelled for being gay. If the Board were to be presented evidence of this happening, it would consider the following principles in its deliberations.

1. Admission means acceptance as a student at the school;
2. The BOOST law requires nondiscriminatory treatment throughout the process of acceptance as a student at the school;
3. A bona fide admission means that the school will not take into account the student's sexual orientation when offering entry to the school, nor will the school discipline or expel a student because of the student's sexual orientation, as this would make acceptance at the school illusory (i.e., a sham admission);
4. A discipline policy that focuses on conduct or behavior without regard to the sexual orientation of the student does not violate the nondiscrimination clause contained in the BOOST law; and 5. A discipline policy that, on its face, singles out conduct or behavior based on the sexual orientation of the student for discipline or expulsion does violate the nondiscrimination clause contained in the BOOST law.

I hope this information is helpful.



Donna Gunning, Executive Director
Maryland State Department of Education
Office of Finance and
Administration
Office of Policy and Fiscal Analysis
200 West Baltimore Street
Baltimore, Maryland 21201
410-767-0757 (office)
410-333-2232 (fax)
donna.gunning@maryland.gov

[Click here](#) to complete a three question customer experience survey.

On Wed, Apr 3, 2019 at 10:41 AM Boost MSDE -MSDE- <boost.msde@maryland.gov> wrote:
Donna, Please see his email below.

Valerie

Exhibit
53

----- Forwarded message -----

From: **Richard Baldwin Cook** <cookrb1@gmail.com>
Date: Thu, Mar 28, 2019 at 7:29 PM
Subject: Re: BOOST Policies & Procedures
To: Valerie Jennings Carpenter, MPA <boost.msde@maryland.gov>

Ms. Valerie Jennings,

Thanks for responding.

However you have sent me BOOST regulations that have to do with admission to school.

I am seeking specific restrictions governing a BOOST participating school, which prohibit an ENROLLED gay student from being SUBSEQUENTLY DISMISSED from a BOOST-participating school because the student is gay.

Are there regulations which prohibits such a dismissal? If so where may I read them?

Thank you,

Richard Cook
Cockeysville, MD

On Thu, Mar 28, 2019, 12:31 PM Boost MSDE -MSDE- <boost.msde@maryland.gov> wrote:

Mr. Cook,

The Broadening Options and Opportunities for Students Today (BOOST) Program provides scholarships for some students who are eligible for the free or reduced-price meals program to attend eligible nonpublic schools. BOOST is administered by the Maryland State Department of Education (MSDE) with the guidance of Governor appointed BOOST Advisory Board. The governing law for the BOOST program requires "for schools to participate a nonpublic school must: comply with Title VI of the Civil Rights Act of 1964 as amended, Title 20, Subtitle 6 of the State Government Article, and not discriminate in student admissions on the basis of race,color, national original, or sexual orientation."

BOOST Program Staff
Maryland State Department of Education

On Wed, Feb 13, 2019 at 5:23 AM Richard Baldwin Cook <cookrb1@gmail.com> wrote:

Ms. Carpenter,

Good morning,

Can you tell me where I can see or obtain a copy of BOOST policies which protect a BOOST scholarship student from being expelled from a school for being gay?

Thank you,

Richard Cook
Cockeysville, MD

EXHIBIT 13

From: Monica Kearns -MSDE- <monica.kearns@maryland.gov>

To: VP Legislation <vplegislation@mdpta.org>

Subject: Re: BOOST Funds used at a School that Uses Questionable Policies

Date: Tue, 10 Oct 2017 14:38:16 -0400

Attachments: BOOST_Advisory_Board_Mtg_Agenda_Oct_11_2017.pdf

Inline-Images: changingMD.png

The public comments segment will be at the end of the meeting, closer to 11 a.m. Attached is the agenda; it should be posted on the web page shortly.

Thanks,
Monica

On Tue, Oct 10, 2017 at 2:28 PM, VP Legislation <vplegislation@mdpta.org> wrote:

Hello Ms. Kearns,

Thank you so much for your understanding. I will be there early to sign-up, present and then I may stay to observe.

Marla Posey-Moss

Vice President for Advocacy

vplegislation@mdpta.org

Ph: [\(410\) 746-2746](tel:(410)746-2746)

Maryland PTA

[5 Central Avenue](#)

[Glen Burnie, MD 21061](#)

"The great aim of education is not knowledge but action."

~Herbert Spencer

"Educating the mind without educating the heart is no education at all."

~Aristotle

On Tue, Oct 10, 2017 at 1:25 PM, Monica Kearns -MSDE- <monica.kearns@maryland.gov> wrote:

Ms. Posey-Moss,

OK that sounds fine for you to present without handing out materials. We will have a sign-in sheet and it should have a column for you to indicate "Yes" you want to make public comments.

Thanks,
Monica

On Tue, Oct 10, 2017 at 12:16 PM, VP Legislation <vplegislation@mdpta.org> wrote:

Hello Ms. Kearns,

I am/was not able to have them to you 15 minutes ago. I can present without passing out to them material. I have already forwarded to you the email you

**Exhibit
84**

I am sure that the Board members are aware of the policies and regulations already.

Marla Posey-Moss

Vice President for Advocacy

vplegislation@mdpta.org

Ph: [\(410\) 746-2746](tel:(410)746-2746)

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~Aristotle

On Tue, Oct 10, 2017 at 10:54 AM, Monica Kearns -MSDE- <monica.kearns@maryland.gov> wrote:

Yes, that should work if we receive them by mid-afternoon.

Thanks,

Monica

On Tue, Oct 10, 2017 at 10:14 AM, VP Legislation <vplegislation@mdpta.org> wrote:

Hello,

Yes, ma'am. I apologize for not getting to you my presentation materials to you on Friday. I have been swamped with Kirwan Commission work and then I was off yesterday and too occupied to provide them to you. Will you accept them today?

Marla Posey-Moss

Vice President for Advocacy

vplegislation@mdpta.org

Ph: [\(410\) 746-2746](tel:(410)746-2746)

Maryland PTA

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Case 1:19-cv-01853-SAG Document 80-16 Filed 07/10/21 Page 4 of 8
On Tue, Oct 10, 2017 at 8:10 AM, Monica Kearns -MSDE- <monica.kearns@maryland.gov>
wrote:

Ms. Posey-Moss,
Did you still want to make public comments at the BOOST Board meeting tomorrow?
Thanks,
Monica Kearns

On Fri, Sep 15, 2017 at 11:36 AM, VP Legislation <vplegislation@mdpta.org> wrote:

Hello Ms. Kearns,

Absolutely. Thanks for accepting it by Oct. 6.

Marla Posey-Moss
Vice President for Advocacy

vplegislation@mdpta.org
Ph: [\(410\) 746-2746](tel:(410)746-2746)

Maryland PTA
[5 Central Avenue](#)
[Glen Burnie, MD 21061](#)

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~Aristotle

On Fri, Sep 15, 2017 at 9:24 AM, Monica Kearns -MSDE- <monica.kearns@maryland.gov>
wrote:

Good morning Ms. Posey-Moss,
Thank you for the email. If you can provide me with your handout for the BOOST Board meeting by October 6, that would be great. You can email it as an attachment and we will make copies.
Thanks,
Monica

On Wed, Sep 13, 2017 at 4:31 PM, VP Legislation <vplegislation@mdpta.org> wrote:

Hello Ms. Kearns,

Per our conversation I am forwarding to you the email I sent to Dr. Grasmick. I will also provide to you a timely bullet point document that I will summarize during my presentation.

Marla Posey-Moss
Vice President for Advocacy

vplegislation@mdpta.org
Ph: [\(410\) 746-2746](tel:(410)746-2746)

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Glen Burnie, MD 21061

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~Aristotle

----- Forwarded message -----

From: **VP Legislation** <vplegislation@mdpta.org>

Date: Tue, May 9, 2017 at 9:26 AM

Subject: BOOST Funds used at a School that Uses Questionable Policies

To: grasmick@kennedykrieger.org

Good Morning Dr. Grasmick,

Thank you for speaking last night as a panelist at the Education forum at Harford Community College. I really enjoyed seeing you again and I am glad you remembered me as a 1998 Governor's Policy Fellow. I cannot remember the name of the Asst. State Superintendent of the PRIM Division, Mark ??? but my immediate supervisor was a fellow Carnegie Mellon Graduate of the Heinz School, Will Morrow. After working at MSDE for 11 months I rotated to the Legislative Office of the Department of Business and Economic Development.

However, last night I attended as an independent Harford County resident. Yet, I made aware to the State Maryland PTA President, President-Elect and President of the Harford County Council PTA that I would attend. I have followed Pre-K legislation closely as the VP of Advocacy for Maryland PTA. Hence, my inquiry about the value of amending the MSDE regulations of private schools to be more transparent and reflective of that of public schools especially if they are given public funds such as via the BOOST (Broadening Options and Opportunities for Students Today) is very important to me.

I am glad there are additional reporting requirements but I don't think it is enough. I believe that the discipline and grading policies, accreditation status, IEP services, etc. ought to be publicized in each respective school's website and within the parent handbook in addition to an anti-discrimination statement. I have no doubts in my mind that there are some private institutions that are receiving public funds are not living up to expectations when it comes to securing the rights and freedoms of their students. Thus, I am attaching a list of schools that receive BOOST funding and on page 4, the third to the last school is

Trinity Lutheran School located here in Harford County. I am also attaching page 4 and 5 of that school's 2016-2017 Parent-Student Handbook of the Trinity Lutheran Christian School and Early Learning Center (formerly referred to as Trinity Lutheran School).

What you will see on page 5 is that according to the school's biblical lifestyle requirement the school emphasizes their right to refuse admission of an applicant or discontinue enrollment of a student of a same sex marriage or relationship. And this is the second year in which they have been eligible to receive the BOOST funding. While I do find this to be appalling, I must be forthright in my transparency and inform you that my children do attend this school and as a parent, we are required to sign off in the handbook corroborating such understanding. However, I have informed the Headmaster of the School that I have some recommended updates to this handbook and omitting such language and practice is one of those updates that I am providing to him and its school board.

The address of the school is [1100 Philadelphia Road, Joppa, MD 21085](https://www.google.com/maps/place/1100+Philadelphia+Road,+Joppa,+MD+21085). The phone number is [410-679-4000](tel:410-679-4000) and the fax is [410-679-3472](tel:410-679-3472). The extension of the admissions office is 185. They can be e-mailed at contactus@trinityjoppa.org and the school website is: www.tlsonline.org.

Should you like to discuss matters more and share some ideas on what I and other common-minded parents would can do to make changes to such institutions please feel free to give to me a call. Private schools statewide need exposure and this is why MSDE regulations pertaining to private schools - especially those that receive public funding - need to require transparency and other policies by which public schools have to abide.

Marla Posey-Moss
Harford County Resident

Marla Posey-Moss
Vice President for Advocacy

vplegislation@mdpta.org
Ph: [\(410\) 746-2746](tel:410-746-2746)

Maryland PTA
[5 Central Avenue](https://www.google.com/maps/place/5+Central+Avenue,+Glen+Burnie,+MD+21061)
[Glen Burnie, MD 21061](https://www.google.com/maps/place/5+Central+Avenue,+Glen+Burnie,+MD+21061)

*"The great aim of education is not knowledge but action."
~Herbert Spencer*

"Educating the mind without educating the heart is no education at all."

~Aristotle

--



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EXHIBIT 14



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October 11, 2017

Advisory Board Meeting, BOOST Program
Maryland State Department of Education
200 West Baltimore Street
Baltimore, MD 21201

Dear Advisory Board,

Thank you for allowing the Maryland PTA provide public comments before the Board that oversees the Program on Broadening Options and Options for Students Today; in other words, BOOST. While many of you are familiar with the Parent Teacher Association (PTA), we want reiterate that we are the largest child advocacy organization in the United States. The Maryland Congress of PTAs promote the PTA's mission to make every child's potential a reality by engaging and empowering families and communities to advocate for all children.

We are pleased to see that the Biblical Lifestyle Requirement of the 2017-18 school year Parent Handbook of Trinity Lutheran Christian School (TLCS) is on the agenda for discussion on acceptance of either of the school's proposal to modify such language to comport with the eligibility requirements of the BOOST Program. Maryland PTA appreciates your being proactive to diligently approach the school for them to amend their handbook and hopefully, practice.

The Maryland PTA has had a long-standing position of endorsing the use of public funds exclusively for public schools. Any consideration for funding the student tuition of private schools with tax payer dollars via legislative appropriations must be met with the strongest application to hold schools accountable to the laws, policies and regulations pertaining to such administration of funds.

It is important to hold schools not only accountable to eligibility requirements but also making schools transparent. Hence, given TLCS's previous two years of being an awardee of BOOST funds while maintaining an open discrimination policy disguised as a Biblical Lifestyle Requirement to refuse admission of an applicant or to discontinue enrollment of a student based on the sexual orientation of a child's parents, it is warranted to say that a stronger partnership is needed between education advocacy organizations such as the Maryland PTA and MSDE to assist in holding schools accountable. It is doubtful that MSDE would have known of such policy if it weren't for any outside organization.

Thus, the Maryland PTA recommends that for all schools that have accepted BOOST funding since inception of the program during the 2016-17 school year as well as for those seeking eligibility henceforth, that following be required of all participating schools:

- All school related parent or student handbooks or annual correspondence to parents that reflect the policies, guidelines and expectations of the students be provided online for public accountability and access.
- All schools establish a clear anti-discrimination policy consistent with the eligibility requirements of BOOST as well as the Nonpublic Schools Textbook Program.
- Appropriation of any BOOST funding should be contingent upon the establishment of the above aforementioned recommendations:
 - to make parent/student handbook communications available online and
 - to establish and publish publicly an online anti-discrimination policy in its admissions and enrollment process

With specific regard to Trinity Lutheran Christian School their initial proposal to modify their Oct. 4 re-write of their policy to *“Reserve the right within the school’s sole discretion to refuse admission of an applicant or to discontinue enrollment of a student, when on those occasions, in which the atmosphere or conduct inside or outside the school is counter to or in opposition to the biblical standards the school teaches.”* is completely unacceptable as it does nothing to ameliorate not penalizing children based on their parents’ or family’s actions, behaviors or lifestyles.

Furthermore, the school’s Oct. 6 concession to completely withdraw the “Present Lifestyle Document” doesn’t mean that there is no adherence to silently implement a policy that has been established for years. Withdrawing the text from the Parent Handbook doesn’t mean that it still won’t be in practice. Hence, the omission of the text along with an established public anti-discrimination policy is better suited to make the school accountable to the eligibility requirements of the BOOST Program.

In terms of administration of the program by MSDE, Maryland PTA respectfully requests that an annual public calendar be established as soon as possible along with the minutes of meetings published within a designated time. Moreover, the agenda should be made public at least a week or more prior to the scheduled board meeting so that interested parties can provide feedback in a timely fashion. Maryland PTA also requests that the MSDE website be updated to reflect a specific person to contact in name, number and email regarding the oversight or administration of the BOOST Program.

During the 102nd Maryland PTA Convention July 28-29, our Congress was informed that the next public meeting was on Aug. 7 and when a call was made to confirm a few days before the meeting it was stated that the meeting was cancelled and when inquired about when the next meeting would occur the lady who answered the phone could not find out when. Maryland PTA has since learned that there was a meeting Aug. 11 and then on Sept. 1. There is a concerned that the public notice was insufficient for interested stakeholders to provide comment or witness the meeting. Lastly, please add Maryland PTA as a partner with which to communicate and send materials such as the agenda or other pertinent meeting information that will be provided at the Advisory Board meetings. Materials may be submitted to the current Maryland PTA President, Latisha Corey at president@mdpta.org. Thank you so much for your time.

Follow-up Comments that were requested after public statement.

As an addendum to the public comments, the Maryland PTA would like to provide additional remarks as a follow-up to the question asked of Maryland PTA’s opinion about the Advisory Board’s decision to disqualify Trinity Lutheran Christian School from participating in the BOOST Program. Part of the disqualification from not adhering to the assurances required by the BOOST Program and guaranteed by a school official, the Advisory Board is considering whether the school ought to pay back the funds granted last school year which is supported

via regulatory language along with not forcing the parents to pay the differential of the tuition promised to them by the state and foregone by the school.

Because Maryland PTA supports the well-being of all students and teachers as well as understands the budgetary nature of private schools and how potential teacher layoffs or increase in tuition could result from any implementation of a claw back clause that requires repayment of the tuition funds from a disqualified institution, the Maryland PTA would rather have a disqualified school penalized in a non-retroactive method. Preference would be to implement a future-oriented penalty and a continued ineligibility status for the same number of years the school was non-compliant. We also believe that, in this instance, allowing parents to have their children matriculate without the economic hardship of having responsibility to pay the gap in tuition expenses are fair as authorized via the budget bill of the 2016 legislative session.

Sincerely,

Maryland PTA

EXHIBIT 15

Maryland PTA[®] LEGISLATIVE AGENDA 2016

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The overall purpose of PTA is to make every child's potential a reality by engaging and empowering families and communities to advocate for all children.

Marla Posey-Moss, Vice President for Legislation, VPLegislation@mdpta.org
Eddie Gleason, Federal Legislative Chair, FEDLegislation@mdpta.org



Maryland PTA's nearly 170,000 members are comprised of families, students, teachers, administrators, business and community leaders devoted to the educational success of children. For over 100 years, Maryland PTA has been the premier child education advocacy organization in the state.

Maryland PTA knows the importance of family engagement at every level of education to support student achievement. Parents want the best for their children and research shows that when families are engaged in their children's education, student achievement and graduation rates increase. When families are engaged, students are more likely to earn higher grades, attend school regularly, graduate high school on time and pursue postsecondary education, regardless of their economic status. All schools can benefit.

Maryland PTA works every day to empower families with the resources to support their child's learning and development for a successful school year. We want parents to be learning heroes and strive to give them the tools they need every day to ensure every child in Maryland grows up to reach their full potential.

The 2016 Maryland PTA Legislative Agenda outlines many of Maryland PTA's policy priorities designed to ensure Maryland maintains a strong public education system. We look forward to a meaningful discussion with you that will produce positive results for Maryland children and their families. Our leaders provide expertise on PTA legislative priorities in many areas including Family Engagement, Special Education, STEM Education, ESSA, Child Health and Nutrition and Juvenile Justice, among other topics. We hope that each of you will reach out to Maryland PTA when you have any questions or need further information on education issues.

You can always reach me at president@mdpta.org or by dialing 410-760-6221. Thank you for your support of public education and for supporting Maryland's children. Together we can work on behalf of every child with one voice.

Elizabeth Ysla Leight, President, Maryland PTA



Maryland PTA 100th Annual Convention, July 2015, Courtesy of LifeTouch©

Maryland PTA's objective is to advocate for parental and community involvement in public schools and to enhance the education, health and welfare for all children, including to secure adequate laws for the care and protection of children and youth.





LEGISLATIVE AGENDA 2016

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2016 MARYLAND PTA STATE LEGISLATIVE FOCUS

PARENT, FAMILY, and COMMUNITY INVOLVEMENT

Maryland PTA initiatives include accessible, equitable opportunities for meaningful involvement of parents/guardians, business and community stakeholders in development and review of public policies, educational standards, graduation requirements, and environmental and health standards.

Maryland PTA supports:

- Policies making strong family involvement a requirement in all appropriate laws and programs. Schools should incorporate parent involvement into all aspects of education programs.

- Promoting positive standards for family-school partnerships to address six specific types of involvement that are



especially beneficial to children's academic success, including: welcoming families into the school community, communicating effectively, supporting student success, speaking up for every child,

sharing power, and collaborating with community.

EDUCATION FUNDING - Maryland PTA supports:

- Full funding of Public Education.
- Ensuring the Inflation Factor is calculated for all State Aid for Public Education.
- Full funding of the Geographic Cost of Education Index (GCEI) for FY 2017 and beyond.
- Ensuring the Inflation Factor is calculated for all State Aid for Public Education.
- The Net Taxable Index (NTI) is used in the calculations as recently amended by the Maryland General Assembly.

SPECIAL EDUCATION - Maryland PTA supports:

- Capping the number of students assigned to special educators, school psychologists, pupil personnel workers, speech pathologists and school counselors via statute or State regulations.
- Increased funding for special education or student support in recognition of increasing costs of providing special education services in schools.
- Shifting the "burden of proof" in Individualized Education Program (IEP) due process cases from parents to school districts.

LANGUAGE ACQUISITION - Maryland PTA supports:

- Allowing school districts to tailor their language instructional programs to meet local needs.
- Programs that assist school districts in ensuring that Limited English Proficiency (LEP) students meet the same high academic standards all students are expected to meet.

QUALITY AND EQUITABLE PUBLIC EDUCATION

Maryland PTA supports:

- Public education funding to support the needs of public schools to initiate or continue to offer high quality educational services to children from early childhood through high school graduation.

- Additional funding to local jurisdictions to correct past inequities in the funding of public education until such time that all jurisdictions have adequate financial resources to meet the needs of all students. This effort has yet to be fully achieved. Efforts to fulfill this goal must be redoubled.

- Public funding to adequately and equitably ensure high quality educational services for all special populations including Physical, Intellectual, and Emotional Disabilities, Gifted and Talented, English Language Learners, Economic Poverty, and other special needs.

- A high quality education for the whole child, to include music, the arts, physical education, and the eight federally mandated core subjects that use technology as a teaching tool to provide educational opportunities for students to meet career objectives.

- Public funds to support public schools. Maryland PTA opposes using public funds to support private and religiously-based schools via appropriations, vouchers, scholarships, or tax credits.

- Establishment of universal voluntary early childhood (Pre-K) education by the end of the current decade.

EFFECTIVE AND COMPASSIONATE JUVENILE JUSTICE

Maryland PTA supports:

- Dropout prevention programs that address the diverse needs of students at risk of leaving school without a diploma.

- Evidence-based truancy programs that provide interventions which are non-punitive, support effective family counseling, and provide community-based solutions.

- Specialized training for school-based law enforcement and calls to develop a uniform school discipline code.



PROTECTION OF HUMAN RIGHTS AND DIGNITY

Maryland PTA supports:

- Policies consistent with National PTA's Core Value of Inclusiveness and Position Statement on Citizenship and Equality.

- Legislation that seeks equal protection and dignity under the law for all persons and families, that provides full access to public education.



LEGISLATIVE AGENDA 2016

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STRONG STATE ACADEMIC STANDARDS

Maryland PTA supports:

- Maryland's curricular framework focused on college and career readiness (MCCR) to provide fundamental knowledge for life in a global economy.
- Activities to inform parents and educators of MCCR-based requirements and implementation strategies at each grade level and how Maryland's increased academic standards will lead to improved student preparedness.
- Activities that include parents and classroom teachers in planning and evaluating the implementation of MCCR-focused curricula and its outcomes at the local level. Periodic assessment of students to ensure progress toward preparedness. The Maryland PTA encourages testing in a manner that allows instruction to be adequately met.

TESTING AND ACCOUNTABILITY

Maryland PTA supports:

- Using assessments by the state, educators and parents to improve instruction and student achievement.
- Maximizing classroom instruction by looking at various ways to administer standardized testing so that long-term results can be adequately obtained and sustained learning will occur with the fewest instructional interruptions possible.
- No single test be considered the sole determinant of a student's high school graduation, college or career future.
- An independent review of the high stakes tests that are administered to all public school students.
- Standardized multiple-choice tests and school readiness tests should never be used with preschool and early elementary children for any purpose.

POSITIVE BEHAVIOR SUPPORTS AND INTERVENTIONS

Maryland PTA supports:

- The development of recommendations for reinforcing student attendance and setting positive expectations for student behaviors. Compacts must include rational "open" disciplinary policies that include the implementation of school wide Positive Behavior Supports and Interventions (PBIS) or similar evidence-based programs.
- Phasing-out zero-tolerance policies and out-of-school suspensions that contribute to achievement gaps based upon socio-economics, culture, and/or special needs of students.



SCHOOL CONSTRUCTION AND MODERNIZATION

Maryland PTA supports:

- Funding for public school construction and modernization that revitalizes the physical condition of school buildings, and the capacity of buildings to provide the appropriate space for physical education, technology education, school meals, and state-rated class sizes.
- Eliminating the use of portable structures and limit the duration of their use when they are necessary.
- Reviewing and modifying state-rated capacity formula and teaching stations.
- Including effective security features in all school buildings.
- Involving parents and community stakeholders in opportunities for public input and oversight of construction projects.
- Ensuring that school facilities meet the needs of each enrolled student, group or program and serve the communities as required via public policy.
- Maintaining adequate, safe and up-to-date school buildings and grounds regardless of the age of the building.
- Using school construction materials that are cost effective, energy efficient, and structurally sound without lowering building standards.



STRONG TEACHER IN-SERVICE EDUCATION

High quality teaching is the foundation of all learning,

Maryland PTA supports:

- In-service and pre-service teacher education programs that include elements of effective parent involvement, diversity, and cultural proficiency.
- Full funding of staff development needed to ensure that all students benefit from high quality teachers and programs designed to meet Maryland's student performance standards.
- The use of teacher performance evaluations only when they are accompanied by strong programs of teacher training and improvement that are developed with the consent of professional associations of teachers and school administrators.
- Programs that prepare educators to teach a diverse student population of varying ethnicity, socio-economic status, English language facility, and giftedness, and inclusion of students with special needs in regular classrooms to the maximum extent possible.



LEGISLATIVE AGENDA 2016

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2016 MARYLAND PTA FEDERAL LEGISLATIVE FOCUS

Derived from the National PTA's Agenda site <http://www.pta.org/advocacy/http://www.pta.org/advocacy/>



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Since its inception, National PTA (PTA) has advocated for improvements to federal education policy for the benefit of every child. National PTA successfully worked with Congress and the Administration to reauthorize the Elementary and Secondary Education Act (ESEA), known as No Child Left Behind (NCLB), as the "Every Student Succeeds Act (ESSA)".

National PTA continues to work with Congress and the Administration to make improvements to special education through the Individuals with Disabilities Education Act (IDEA), and quality early childhood education programs such as Head Start, Early Head Start, and the Childcare and Development Block Grant. Maryland PTA joins National PTA in advocating for increased federal investment in education, with the goal of ensuring that all students graduate from high school college- and career-ready.

GENERAL EDUCATION - Given the reauthorization of ESEA as the Every Student Succeeds Act (ESSA), National PTA will continue to fight for access to well-rounded curricula, equity protections for disadvantaged populations and accountability to parents and the community.

EDUCATION FUNDING - Federal investment in quality education is critical to our nation's long-term success. National PTA supports replacing the sequester cuts with a balanced and fair approach, protecting vital education investments in all federal deficit reduction efforts, securing dedicated funding for family engagement in education, increasing funding for IDEA and maintaining or increasing investments in quality early learning programs.

SPECIAL EDUCATION - Through the Every Student Succeeds Act (ESSA) and the Individuals with Disabilities Education Act (IDEA), National PTA will continue to advocate to ensure that all students graduate from high school college and career-ready. PTA will work to make family engagement a central focus and ensure that it remains a fundamental principle of IDEA and will work to ensure that the rights of children with disabilities are fully protected.

JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT (JJDP) - Protecting the rights of children and youth involved in the justice system continues to be an area of focus for National PTA. NPPTA supports a reauthorization of the JJDP that includes improved provisions that keep youth who commit non-criminal offenses out of secure juvenile corrections facilities, and that ensures the Jail Removal and Sight and Sound Separation core protections are extended to all children under 18 years of age.

EARLY CHILDHOOD EDUCATION - National PTA supports federal and state incentives for high-quality child care and preschool programs that are affordable and accessible, coordinated at all levels characterized by high standards for teaching, training, health and safety and incorporate strong family engagement components.

CHARTER SCHOOLS - National PTA acknowledges charter schools as one avenue to school reform and supports the concept of charter schools only if the schools reflect the positions and principles of National PTA. National PTA will support legislation or policy decisions relating to charter schools that adhere to and comply with applicable laws and guidelines set forth for other public elementary and secondary educational institutions.

CHILD HEALTH AND NUTRITION - National PTA strongly supports continued implementation of the Healthy and Hunger-Free Kids Act of 2010, including healthy guidelines for all foods sold in schools, strengthening Local Wellness Policies and improving nutrition standards for meals served as part of the National School Lunch and Breakfast Programs.

SCHOOL SAFETY - School safety is a crucial component of effective learning. National PTA believes that the safety of children and faculty in all school settings is a fundamental right and has made it the utmost priority for our programmatic and advocacy work. National PTA will work to support federal programming and policies related to safe routes to school, bullying prevention and the protection of children from gun violence.

EXHIBIT 16

Chapel and Religion

Separate chapel services are conducted each Wednesday in the Church Nave for Pre-K through grade 4 and for grades 5-8. Their services are conducted by the headmaster and feature a great deal of involvement from staff members and students alike, along with occasional guest participants.

The 4th & 5th Grade Choruses participate on a regular basis, as does the Middle School Drama Club. A song leader and musical accompaniment assist in leadership. The message or theme of the day is frequently presented through multi-media resources such as videos, DVDs, and a PowerPoint format. There is a strong emphasis on student involvement in a celebration atmosphere of joy. At all times, a proper worship spirit and reverent attitude toward God are maintained.

Worship services of praise are observed for Thanksgiving, Christmas, Lent, Easter and other festivals. A major component of all chapels is to lead a student to faith in Jesus, God's Son, and to provide opportunities for the students to experience their love of God by a loving involvement with their fellowman. Special projects and offerings are prepared by our students to experience their love for humankind, such as food baskets for the poor, special offering for Tsunami victims, Day of Hope, care packages for our military and others. The middle school chapel celebrates Holy Communion each month and Baptism when requested. Instrumentalists accompany services whenever they are available.

Every class opens and closes each day with a prayer in the classroom. Daily devotions and Pledge to the Christian and American Flags are also part of the morning routine. There is a daily emphasis on Bible stories, Bible verses, Christian living with our neighbors and application to daily life.

The families of our school system are always invited and welcome to all the weekly chapel and worship celebrations of Trinity Lutheran congregation.

Biblical Lifestyle Requirement

"When schools flourish, things go well and the church is secure. Let us make more doctors and masters...When we are dead, where are others [to take our place] if there are no schools? God has preserved the church through schools." -- Martin Luther, LW 54, p. 452.

Trinity Lutheran Christian School & Early Learning Center is a religious institution providing an education in a distinct Christian environment, and it believes that its Biblical role is to work in conjunction with the home to mold students to be Christ like.

On those occasions in which the atmosphere or conduct, inside or outside the school, is counter to or in opposition to the Biblical lifestyle the school teaches, the school reserves the right, within its sole discretion, to refuse admission of an applicant or to discontinue enrollment of a student. This includes, but is not necessarily limited to, living in, condoning, or practicing homosexual lifestyle or alternative gender identity; promoting such practices; or otherwise having the inability to support the moral principles of the school. (Leviticus 20: 1 3a, Romans 1:27, Matthew 19:4-6). As such, the school reserves the right, within its sole discretion, to refuse admission of an applicant or to discontinue enrollment of a student of a same sex marriage or relationship.

Martin Luther was in favor of education. In fact, he deeply influenced the way schools developed in Germany. Because of Luther's concern for education, he and his fellow reformers...

- ...began reform of education before reform of the church
- ...developed new curricula and pedagogies that shaped both schools and universities
- ...favored adult education as well as the education of the "traditional student"
- ...facilitated the education of international students
- ...advocated schools for both boys and girls

While Luther clearly believed in the effectual power of the preached Word, he also believed that preachers needed to be taught who and what to preach. What his methods show us is that he put most of his effort into education. Trinity Lutheran follows in this Biblical heritage with their church and school.

The Sacred Scriptures teach that in the beginning the blessed Trinity instituted marriage to be the life-long union of one man and one woman (Gen 2:24, Matt 19:4-6), to be held in honor by all and kept pure (Heb 13:4, 1 Thess 4:2-5). God's Word assures us that each time one man and one woman join themselves together in the union of marriage commitment and relationship, God himself has joined them as one. It is important to see that marriage is not only a grace-filled institution of the church, but part of the very fabric of God's creation, which extends to every time and place on earth and includes every man and woman who are joined together in this "one flesh" commitment and bond. Marriage is created by God and is not simply a social contract or convenience.

Flowing from the gift of marriage is another precious gift of God, the gift of children. "Be fruitful and multiply" (Gen 1:28) is as much a word of divine blessing as it is a command. Children are the most obvious, distinctive, and natural gift of marriage, for the child is in every sense the "one flesh" of the mother and father.

EXHIBIT 17

**Broadening Options and Opportunities for Students Today (BOOST)
Advisory Board Meeting Minutes – October 11, 2017**

Date: October 11, 2017
Time: 9 a.m. – 11 a.m.
Location: MSDE, 8th Floor, Conference Room #2

Board Members:

Present: Matt Gallagher, Dr. Nancy S. Grasmick (via teleconference), Ms. Linda Eberhart, Ms. Elizabeth Green Esquire, Beth Sandbower-Harbinson

Absent: Dr. Skipp Sanders

MSDE Staff Present: Monica Kearns, James Klarman, Felicia Holloway-Wise, Kenya DeCosta, Chandra Haislet, Tracy Dusablon

Attorney General's Staff Present: Ms. Elizabeth Kameen, Alan Dunkalow, Esquire

Proceedings and Public Comment:

- Meeting called to order at 9:06 a.m. by Chair, Matt Gallagher

Update on scholarship awards:

Ms. Kearns began the meeting by providing the board with an overview of the update on scholarship awards based on renewals, new applicants, awarded, and accepted renewals.

Ms. Green inquired about renewal applicants who have not responded to communication sent by MSDE.

Ms. Kearns provided the following breakdown of application status:
Page 1 shows renewals before declined awards
Page 2 shows after the declined amount has been taken out in more detail
Page 3 a decision point based on the 600k
Page 4 is informational and more detailed on declined awards
Page 5 also informational on awarded and accepted by applicant county of residence

Ms. Kearns asked the Board to make a decision on whether 'prior type as none' will be an award category.

Ms. Eberhart asked if kindergarten was included in the "none" category of students on page 2

Ms. Kearns indicated "correct."

Mr. Gallagher asked MSDE how familiar they were with the "none," category.

Ms. Kearns replied that the "none," category consisted of home schooled applicants.

Mr. Gallagher indicated choice being to include the 36 applicants which are primarily home school kids and asked Ms. Kameen to provide clarification on the Bill language.

**Exhibit
93**

Ms. Kameen indicated that students were not defined in the Bill language. Homeschoolers don't have to declare free or reduced-price meals so that's an issue, the school system has to approve students on home teaching, the curriculum has to be defined, family income would still be a criteria even without Free and Reduced-Price Meal Data. There is an approval process for home schoolers; if not included it will raise an issue.

Ms. Green asked what type of award was given to homeschoolers and/or "none," category applicants last year. She indicated that there would likely be an outcry if there was a change in status for homeschoolers from public to private.

Ms. Eberhart asked MSDE if students were given a certain amount last year was that carried over for the current school year.

Update on schools:

Ms. Kearns stated that there were seven schools with awardees who have not agreed to the assurances and that there is still work to be done with schools to determine where things stand with them. Ms. Kearns also made mention that eventually some work efforts will need to end in order to move forward with preparing payment data because once payment efforts begin, data cannot be manipulated.

Ms. Eberhart asked MSDE if all assurance were received last school year.

Ms. Kearns specified schools that didn't agree were not paid and that if something happened subsequently, the school was placed in another round of payments. First round of payments was in January last year; however, we are in much better shape this year.

Dr. Grasmick asked MSDE if schools that haven't agreed with the assurances received follow-up phone calls.

Ms. Wise indicated that calls had been made and emails sent.

Mr. Gallagher inquired about the number of eligible schools.

Ms. Kearns indicated that there were 160 schools.

Mr. Gallagher posed the question as to whether there would have been a similar noncompliance issue last year.

Ms. Kearns indicated no due to the point that there were many schools which didn't submit data last year.

Ms. Green asked if the same questions were used from last year.

Ms. Kearns indicated that the same questions were used.

Ms. Eberhart asked MSDE if there were schools from last year that we didn't get data from.

Ms. Kearns indicated within the 126 about 60 schools have awardees.

Dr. Grasmick asked Ms. Kameen if a secondary school teacher might be determined to be noncertified if the teacher was teaching in an area which would be considered a second subject.

Ms. Kameen indicated the issue in regard to data collection has yet to be attended to.

Mr. Gallagher pointed out that last year all assurances were received by the end of the year and wanted to know if this year certification was an issue because the 126 is worrisome since that was a noncompliance area last year.

Ms. Sandbower-Harbinson asked if there was an all or nothing scenario. I.e., if data isn't received from all schools will payments have to be withheld?

Ms. Kearns indicated schools with received data will receive payment.

Ms. Green made an inquiry regarding Jewish day schools. The schools accessed tuition not crediting families for any BOOST award. If an award will be received, tuition will be adjusted.

Ms. Eberhart asked if the schools didn't get checks because forms weren't completed would parents put pressure on schools; suggested sending a letter to parents.

Ms. Kearns stated that parents have been informed of the schools responsibility needing to be met before payment can be made.

Mr. Gallagher asked if MSDE should send a message to schools saying something to the effect of "if you don't fulfill your requirements, you won't receive payment."

Ms. Kearns indicated that MSDE had previously met that suggestion.

Ms. Green expressed concern about parents and schools taking advantage of extended or soft deadlines.

Mr. Gallagher suggested MSDE send a list to the Archdiocese of schools who aren't in compliance.

Ms. Eberhart suggested that the next email from MSDE should indicate that the BOOST Board met on October 11 and the deadline will be... and payment info will go to the comptroller's office.

Ms. Kameen asked if the Board has set a date for firm deadline.

Ms. Kearns stated disagreement with offering another last change for compliance as this will delay December payments.

Ms. Kameen stated that the Bill language specified a December deadline date

Mr. Gallagher pointed out to the Board that there needs to be more cooperation from schools along with specific recommendations which can be put into the letter to the General Assembly

Ms. Sandbower-Harbinson asked if the Board wanted to start a short collection of questions to the schools in order to set parameters.

Ms. Kearns agreed with the recommendations.

Mr. Gallagher stated that the Board should take responsibility for majority of the letter to the General Assembly/budget committee and added that Ms. Kearns could give some recommendations.

Ms. Kearns stated that MSDE would solicit feedback from schools at the November Nonpublic Textbook meeting.

Dr. Grasmick mentioned that maybe there needed to be something that clarifies certification of teachers because it doesn't look good that there aren't many certified.

Ms. Green agreed that teacher certification needed clarification.

Ms. Kearns explained to the Board that the teacher certification data was from the 2016-17 School Year and was provided to Board members as an attachment to a memo which went to Ms. Kameen. Ms. Kearns made mention that MSDE would report per what's required for teacher certification data.

Mr. Gallagher announced for public comments.

Mr. Garrett O'Day from the Archdiocese stated that the teacher certification data reported was incorrect.

Ms. Kearns stated that the reported data was received directly from the schools.

Mr. Gallagher asked Mr. O'Day to flag all schools which seemed to be off the mark with what was reported and provide the information to MSDE.

Discussion of reporting of assessment results:

Ms. Dusablon advised the Board that the assessment data collection was opened in the August 2016-17 School Year.

There were a total of 159 schools that should be reported. All but 16 are complete. The assessment team needs assistance with the manner in which MSDE wants the data reported. Data has been sent to MSDE in a secure manner through secure transport and should be sent to the legislature the same way. The assessment team is looking to the Board for guidance on how data should be recorded (assessment data as collected is an aggregate manner).

Ms. Green asked if the reporting requirements were mandated.

Ms. Kameen stated that having reporting requirements were included in the statute.

Ms. Ebehart asked Ms. Dusablon if the assessment data would be scored as a pass or not pass in regard to students meeting the assessment.

Ms. Dusablon answered that the scoring was pass, met, or efficient.

Ms. Kameen indicated that the decision point would be individual versus county versus Statewide data.

Ms. Sandbower-Harbinson stated that she was in favor of the recommendation that data collection be Statewide and mentioned that the Board may want to consider including this recommendation in the letter going to the General Assembly.

Ms. Kameen pointed out to the Ms. Dusablon and Ms. Haislet that the identifiers are used for growth measure.

Ms. Eberhart stated that she preferred to do a county measure for testing/reporting and eventually at the school level.

Dr. Grasmick stated that she supported the Statewide reporting model.

Mr. Gallagher asked why reporting would include Statewide, but not County and other areas. Reporting for BOOST should mirror what's being done for public schools. There is the concern that if only Statewide reporting is done there will be complaints that there isn't enough data.

Ms. Dusablon made mention that when reporting, consider the purpose, what needs to be shared. Going beyond state level, you have to think about protecting student identity, and thinking about what's most important. There isn't any history on the students.

Ms. Eberhart stated that she felt as though the purpose of reporting would be to show growth.

Ms. Green agreed with Statewide level reporting because there are so few counties that hit the threshold for reporting.

Dr. Grasmick asked if the Board should conduct statewide reporting until a process is defined in order to make things more meaningful.

Mr. Gallagher commented that the Board should be specific and clear on what's being reported.

Ms. Eberhart requested direction for school level reporting.

Ms. Green suggested there be more clarity regarding reporting methods to avoid seeming elusive.

Ms. Sandbower-Harbinson suggested within the report there should be clarity regarding the data.

Mr. Gallagher Agrees. Things option 3 is the most inclusive in bringing the most data. Include disclaimer and limitations.

Ms. Kearns asked the assessment staff if an internal conversation could be had and follow-up with reporting's to the Board.

Mr. Gallagher pointed out that county isn't reflective to geography because students are coming from other locations.

Review of Student Handbook Language from Trinity Lutheran School.

Ms. Kearns informed the Board that MSDE was contacted by an outsider regarding a concern with Trinity Lutheran's handbook language. Ms. Kearns spoke to Ms. Kameen who confirmed that the language was problematic. Ms. Kearns discussed the issue with the schools headmaster and there was a rewrite of the language in the handbook dated October 4th. Neither Ms. Kameen nor Ms. Kearns thought the first rewrite would meet requirements of BOOST. The Headmaster provided another revision, dated October 6th.

Ms. Eberhart asked if the issue was with the language or with what the school actually does. If it is the latter, the school shouldn't be allowed to participate.

Mr. Gallagher asked MSDE if the schools assurances were inaccurate.

Both Ms. Kearns and Ms. Kameen responded "yes."

Mr. Gallagher indicated that there was an obvious issue of the schools policy being in conflict with the prior assurances. He encouraged MSDE to review compliance in both the Nonpublic Schools Textbook program and the BOOST program. Mr. Gallagher found the October 4th letter to be unacceptable. If sentiments are reflected anywhere else in the schools policy, they need to end participation in the program.

Ms. Sandbower-Harbinson asked if the textbook program requires a proactive statement for textbook participation.

Ms. Kearns replied "yes."

Ms. Eberhart suggested the schools not to receive scholarship funds due to conflicting statements.

Dr. Grasmick expressed concern that the schools will continue to use discriminatory admission requirements.

Ms. Green stated that the Board can only address the overt statement which was in contradiction to another statement that was made.

Mr. Gallagher asked how many students were scholarship eligible from the school.

Ms. Kearns answered 20 students.

Ms. Green asked if the students were already in the school prior to program participation. If so, the Board shouldn't penalize the school.

Ms. Kearns stated that she would find out and report back to the Board with an answer.

Mr. Gallagher stated that the Board isn't penalizing the school because the school was clearly in noncompliance.

Ms. Eberhart suggested the Board suspend the school for two years.

Mr. Gallagher asked Ms. Kameen if suspending the school was a Board decision or an MSDE decision.

Ms. Kameen stated that the Board directs MSDE on how to operate the program.

Mr. Gallagher addressed the comments as they related to BOOST indicating that the schools handbook and policy are against the BOOST policy. He asked MSDE to evaluate funding for the Nonpublic Textbook program as well.

Points made regarding noncompliant schools were:

- Has ability to reapply to BOOST and the Nonpublic Textbook Programs
- Would have to come back with a much more comprehensive statement as it relates to participation.
- MSDE can request supplemental information. Scholarships for students would be held and funds from last year may have to be returned with legal counsel approval.

Ms. Green suggests sending communication out to all schools advising them to revisit their handbook language.

Ms. Eberhart asked if the Board should request for schools to send their handbook along with assurances next year.

Dr. Grasmick asked why there wasn't an overt statement.

Ms. Eberhart suggested overt statement language be included on the application.

Ms. Kameen indicated that the existing language is strong enough that the statement can be included on the application or in the schools handbook. The Board would have to establish things prospectively as opposed to retro.

Mr. Gallagher suggests disqualifying noncompliant schools for the current year. He asked MSDE if any school had been disqualified from the Nonpublic Textbook program.

Ms. Kearns indicated "no."

Ms. Eberhart commented that the Board shouldn't qualify the school for the next school year if they received funding the prior school year because it will be difficult to get the money returned.

Mr. Gallagher asked if most of the students awarded were renewals or new students.

Ms. Wise stated that most were renewals and received large award amounts; 19 last year, two of the renewal awards were prior awards.

Mr. Gallagher stated MSDE would need to communicate to families that the school is no longer eligible and that they can transfer the award to another school.

Ms. Kameen mentioned that the statute states the school has to return funds to MSDE and students can remain in the selected school without being required to reimburse the school.

Ms. Green suggested informing schools they aren't eligible, to return funds, and that students have to remain enrolled without penalty.

Ms. Eberhart asked Ms. Kameen if it was possible to implement all of Ms. Green's recommendations.

Ms. Kameen stated that the recommendations seemed possible because of the language in the statute and that she would draft a letter.

Monica informed the Board that the BOOST and Nonpublic Textbook program assurances were being handled in the same manner.

Ms. Eberhart inquired as to whether the noncompliant BOOST schools would have to repay funds received from the Nonpublic Textbook program.

Ms. Green suggested alerting other schools that the consequences of dishonesty with assurances are extreme.

Mr. Gallagher asked the Board if they planned to entertain schools that change their handbook policy to stay in the BOOST program and if the school became compliant; would the Board accept the school?

Mr. Clark stated the nondiscriminatory language wasn't in the original language and that he had no knowledge of any school that was disqualified from the Nonpublic Textbook program for any reason.

Mr. Klarman informed the Board that schools in the Nonpublic Textbook program elect to self-withdraw.

Mr. Gallagher addressed the Board in regard to Trinity Lutheran:

- Disqualify
- communicate to families that awards are portable
- inform the schools and parents that the school is required to continue the students enrollment
- Explore the possibility or require reimbursement (Ms. Kameen will need to check the statute language and information sent to the school).

Ms. Green asked where funds would be allocated to should the school return the money.

Mr. Clark indicated that the funds would be returned to the State Comptroller.

Ms. Kameen cosigned that the money would be returned to the Comptroller and could potentially be reappropriated; the Board shouldn't assume the funds will come back to MSDE/BOOST.

Mr. Gallagher stated to the Board that it will be necessary to revisit the application process and language and policy and practices prior to readmission in the program. There was also question as to how MSDE would handle communication to the school. Mr. Gallagher suggested that the MSDE communication office and State Superintendent be involved due to public interest.

Dr. Grasmick suggested notifying parents since they may be upset even though the awards are portable. It was recommended that MSDE should ignore the possibility that there will be discord among parents within the school and have a consistent response.

Mr. Gallagher reiterated the need for MSDE to contact the communications office stating that the Board would be better served being proactive instead of waiting for the school to distribute any type of public notice.

Ms. Green suggested keeping involved schools identity private.

Ms. Kearns pointed out that the school name is already on the public BOOST agenda which is posted on the MSDE website.

Mr. Gallagher made the recommendation to not keep noncompliant schools private in any impending press releases and suggested the Board be open and transparent with all communication.

Ms. Kearns asked for clarification.

Mr. Gallagher advised MSDE to notify applicants as soon as possible instead of being blindsided by the school should they call a press conference. He also mentioned that the letter to the general Assembly requires revision and to use last year's letter and make notations where data needs to be updated and include suggestions and send out to Board members for input. The revision period can also serve as an opportunity to include slides in the report to show trends in change and distribution of funds.

Ms. Eberhart asked if MSDE's State Board wanted informational handouts or more?

Ms. Kearns replied that the State Board requested an update on the Program and that a memo was provided.

Ms. Eberhart expressed concern about the Federal push toward school vouchers and suggested that perhaps Mr. Gallagher be present for the next Board meeting.

Ms. Kearns and Mr. Gallagher both stated that the decision for Mr. Gallagher to attend will be determined at a later date.

Call for Public Comments

The Maryland PTA had the following concerns:

- Addressed the Board regarding using public funds for public schools
- Wants the Board to hold schools accountable (discussed Trinity Lutheran's biblical lifestyle discriminatory language). Recommends all schools handbooks be evaluated.
- Suggested parent related handbooks be provided for public accountability.
- Establish anti discriminatory policy.
- Appropriation for funding for the aforementioned.
- Commented that Trinity Lutherans revision of their handbook language is unacceptable and penalizes children for parent's lifestyle.
- Requests the school to withdraw handbook text even though it may still be in practice in an effort to hold them accountable.
- Transparency of meeting minutes. Would like for minutes to be posted within a reasonable timeframe.
- Requests meeting agenda be published a week prior to the meeting.
- Requests contact for the BOOST Program.
- Stated that the public notice given was insufficient for interested parties.
- Would like the Maryland PTA added to a list of partners to receive materials. Send materials to Laticia: president@marylandpta.org
- Suggests making school ineligible for next school year since most schools don't have funding to reimburse funds to MSDE; will have a rippling effect.
- Will provide Board with a copy of all concerns.

Mr. Gallagher expressed appreciation for all of the concerns of the Maryland PTA and stated that he will review the information and to determine what accommodations the Board could make.

Mr. O'Day (Archdiocese) communicated agreement with the Maryland PTA and the Boards decision on the Trinity Lutheran policy and also expressed concerned about the issue on oversight. Mr. O'Day indicated that the policy could be outdated or there could have been new staff that was unaware of the policy. Mr. O'Day also had concerns that the Board will punish a possible archaic oversight.

Ms. Eberhart commented that the school came back with unacceptable language twice so it seems that it was clear that the schools policy wasn't in the past.

Ms. Green asked MSDE if the school made the assurance and not the school board.

Ms. Kearns indicated yes the school agreed to the assurances and the principal or school head are required to certify the assurances.

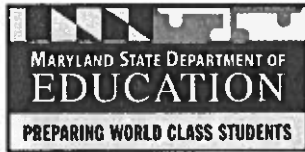
Ms. Tina Dove from the Maryland State Education Association was in favor of the Trinity Lutheran decision. Recommended the Board includes the language: It is incumbent upon the school to self-police, programs are voluntary.

Ms. Eberhart asked if there would be another meeting.

Mr. Gallagher indicated a future meeting will be determined at a later date.

Meeting adjourned at 11:37 a.m.

EXHIBIT 18



Karen B. Salmon, Ph.D.
State Superintendent of Schools

200 West Baltimore Street • Baltimore, MD 21201 • 410-767-0100 • 410-333-6442 TTY/TDD • marylandpublicschools.org

October 13, 2017

Pastor John Austin
Trinity Lutheran Christian School
1100 Philadelphia Road
Joppa, MD 21085

Dear Pastor Austin:

At the BOOST Advisory Board meeting on October 11, 2017, the Board reviewed the “Biblical Lifestyle Requirement” section of the Handbook of Trinity Lutheran Christian School and Early Learning Center. That section of the Handbook states in part:

Trinity Lutheran Christian School and Early Learning Center is a religious institution providing an education in a distinct Christian environment, and it believes that its Biblical role is to work in conjunction with the home to mold students to be Christ like.

On those occasions in which the atmosphere or conduct, inside or outside the school, is counter to or in opposition to the Biblical lifestyle the school teaches, the school reserves the right, within its sole discretion, to refuse admission of an applicant or to discontinue enrollment of a student. This includes, but is not necessarily limited to, living in, condoning, or practicing homosexual lifestyle or alternative gender identity; promoting such practices; or otherwise having the inability to support the moral principles of the school. (Leviticus 20:1 3a, Romans 1:27, Matthew 19:4-6). As such, the school reserves the right, within its sole discretion, to refuse admission of an applicant or to discontinue enrollment of a student of a same sex marriage or relationship.

The Board also reviewed two letters in which you describe changes that the school proposed to make to the “Biblical Lifestyle Requirement” section of the Handbook. Those changes were proposed after the school was notified by BOOST staff that the statements included in the “Biblical Lifestyle Requirement” contradicted the Assurances that you signed on behalf of the school in both the 2016-2017 and 2017-2018 school years. The Assurances stated that the school “will not discriminate in student admission on the basis of... sexual orientation.” In the Handbook, however, it states that “the school reserves the right, within its sole discretion, to refuse admission of an applicant or discontinue enrollment of a student of a same sex marriage relationship.” The Handbook also states that the school may refuse to admit or disenroll a student practicing a homosexual lifestyle or alternative gender identity.

Trinity Lutheran Christian School
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Despite the fact that you proposed two options to change the Handbook, the BOOST Advisory Board determined that signing the non-discrimination Assurance in two school years in the face of the statements in the Handbook is in direct contradiction of the BOOST law. On the one hand, the school agreed not to discriminate in admissions. On the other, it reserved the right to do so. The Board decided that the proposed changes could not cure such a violation of State law.

The law governing compliance with the BOOST non-discrimination clause states that a nonpublic school that does not comply "shall reimburse MSDE all scholarship funds received under the BOOST Program and may not charge the student tuition and fees instead." Ineligibility for participating in BOOST is also a legal remedy. Based on that law, the BOOST Advisory Board has disqualified Trinity Lutheran Christian School as BOOST school for the 2017-2018 school year. The Board is considering, but has not definitively decided, whether to seek reimbursement of scholarship funds in the amount of \$64,284 (including pro-rated awards) that Trinity Lutheran Christian School received under the BOOST Program in the 2016-2017 school year.

It is our understanding that for the 2017-2018 school year, 20 students that received BOOST awards selected Trinity Lutheran Christian School and 19 of them are currently enrolled in the school. Pursuant to the law, the school may not charge the students tuition and fees to replace the BOOST scholarship funds that the school would have received if it were deemed an eligible BOOST school. The Board will notify the parents of each student that the law protects them from having to pay tuition and fees to replace the BOOST scholarship funds that will not be paid to Trinity Lutheran Christian School. The Board will also explain that the student's eligibility for a BOOST scholarship is not impacted by the fact that Trinity Lutheran Christian School is an "ineligible" school. The BOOST scholarship is portable. Thus, the Board will advise parents that they may seek enrollment of their students in another BOOST school for the 2017-2018 school year, if they wish.

The Board also discussed the fact that Trinity Lutheran Christian School is a participant in the Non-Public School Textbook Program which requires the school to sign a non-discrimination assurance similar to the BOOST Program non-discrimination assurance. The Board has referred the issue of non-compliance with the Textbook Program non-discrimination requirements to the Maryland State Department of Education for consideration and decision. You will receive a separate letter concerning the school's continued participation in the Non-Public School Textbook Program.

The Board wishes to inform you that Trinity Lutheran Christian School may re-apply for BOOST school eligibility in the 2018-2019 school year. At that time, the Board may require a comprehensive review of the Handbook and admission documents, as well as supplemental information on admission and denials of admission of students and other relevant information.

The Board wishes to point out that there are nonpublic schools in Maryland that disqualified themselves to be BOOST schools because, in light of their religious or moral beliefs, they could not sign the non-discrimination assurance. That was the honorable decision, one that respected the use of public dollars to fund nonpublic education; one that respected the law. It is the expectation of the BOOST Advisory Board that all BOOST schools will follow that course of action.

If you have questions about this matter, please contact Monica Kearns, Assistant State Superintendent, at 410-767-8863 or monica.kearns@maryland.gov.

Trinity Lutheran Christian School
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Sincerely,

A handwritten signature in black ink that reads "Matthew D. Gallagher". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Matthew Gallagher
Chair, BOOST Advisory Board

cc: BOOST Advisory Board
State Board Members
Karen B. Salmon, Ph.D.
Kristy Michel
Monica Kearns
Parents of BOOST Students Enrolled in the School
William Reinhard
Gayle Secrist
Elizabeth M. Kameen



Karen B. Salmon, Ph.D.
State Superintendent of Schools

200 West Baltimore Street • Baltimore, MD 21201 • 410-767-0100 • 410-333-6442 TTY/TDD • marylandpublicschools.org

October 13, 2017

Dear Parent of a Trinity Lutheran School BOOST Student:

On behalf of the BOOST Advisory Board, I take this opportunity to inform you about a change in status of Trinity Lutheran Christian School. You will see in the letter attached here that Trinity Lutheran Christian School is no longer an eligible BOOST school for the 2017-2018 school year. As a result, it is not eligible to receive BOOST scholarship funds.

I understand that you have a child or children who have BOOST scholarships and are enrolled in or plan to enroll in the school. The school's ineligibility *will not* affect your child's scholarship or your pocketbook. The BOOST Advisory Board told the school that, under the law governing the BOOST Program, the school cannot charge you tuition or fees to make up for the BOOST Scholarship funds it will not receive from the State of Maryland. Of course, the BOOST scholarship is "portable," so if for any reason you wish to seek to enroll your child in a different BOOST school, you may do so, but you are not required to do so.

If you have any questions about this letter, please contact me or my colleague Felicia Holloway Wise at boost.msde@maryland.gov or call Ms. Holloway Wise at 410-767-0118. I wish you and your student a very successful school year.

Sincerely,

Monica Kearns
Assistant State Superintendent

cc: BOOST Advisory Board
State Board Members
Karen B. Salmon, Ph.D.
Kristy Michel
Monica Kearns
William Reinhard
Gayle Secrist
Pastor John Austin