

# **EXHIBIT 19**

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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 FELICIA  
WISE, was taken on Thursday, April 22, 2021,  
commencing at 9:30 a.m., at 1709 Prairie Court,  
Severn, Maryland 21144, 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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12 On behalf of the Defendants:

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20

21 ALSO PRESENT: Ms. Eliza Spikes, Esquire

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| 3  | Exhibit 73                | 2017.12.11 Kearns email to BOOST 71        |
| 4  |                           | Members attaching Adventist handbook       |
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| 11 | Exhibit 77                | 2018.02.21 Kearns asks Kenya to send 87    |
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| 18 |                           | Christian Academy over Marriage            |
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| 20 | Exhibit 80                | 2018.03.19 Kearns email to BOOST Board 100 |
| 21 |                           | on Broadfording and 11 category three      |
|    |                           | schools                                    |
|    | Exhibit 81                | 2018.03.19 Kearns list of eleven 105       |
|    |                           | category three schools                     |
|    | Exhibit 82                | 2018.05.01 Kearns email listing Bethel 107 |
|    |                           | as a category 3 school May 1, 2018         |
|    | Exhibit 83                | 2018.05.02 Kearns forwards legal 109       |
|    |                           | counsel memo to staff and asks them not    |
|    |                           | to share outside BOOST Board or staff      |
|    | NOTE:                     | All exhibits maintained in Exhibit Share.  |

1           VIDEOGRAPHER: Good morning. We are 09:30:50  
2 going on the video record at 9:30 a.m. on Thursday, 09:30:59  
3 April 22, 2021. This is media unit number one in 09:31:02  
4 the videorecorded deposition of Ms. Felicia Wise 09:31:05  
5 taken in the matter of Bethel Ministries, Inc. 09:31:07  
6 versus Salmon, et al. filed in the United States 09:31:11  
7 District Court for the District of Maryland, 09:31:14  
8 Northern Division. Case number 1:19-CV-01853. 09:31:16  
9           This deposition is being held via Zoom. 09:31:24  
10 My name is Eliza Spikes and I am from Veritext and 09:31:26  
11 I am the legal videographer. The court reporter 09:31:30  
12 today is Ms. Allison Shearer also from Veritext. I 09:31:32  
13 am not authorized to administer the oath. I am not 09:31:35  
14 related to any party in this action, nor am I 09:31:38  
15 financially interested in the outcome. 09:31:41  
16           Counsel and all present in the room and 09:31:42  
17 anyone attending remotely will now state their 09:31:44  
18 appearances and affiliations for the record. If 09:31:47  
19 there are any objections to this proceeding, please 09:31:49  
20 state them at the time of your appearance beginning 09:31:52  
21 with the noticing attorney. 09:31:54

1 MR. SCHMITT: This is Paul Schmitt. I 09:31:56  
2 will be taking the deposition on behalf of Bethel 09:31:59  
3 today and I've got Ryan Tucker and Jacob Reed 09:32:02  
4 observing. 09:32:06

5 MS. SHERIDAN: This is Ann Sheridan. I 09:32:09  
6 represent the defendants in the case and the 09:32:11  
7 witness. I'll be representing the witness during 09:32:14  
8 this deposition. 09:32:16

9 VIDEOGRAPHER: Okay. Thank you. Will 09:32:17  
10 the court reporter please swear in the witness. 09:32:19

11 FELICIA WISE, 09:32:39  
12 the Deponent, called for examination by the 09:32:39  
13 Plaintiff, being first duly sworn to tell the 09:32:39  
14 truth, the whole truth, and nothing but the truth, 09:32:39  
15 testified as follows: 09:32:39

16 VIDEOGRAPHER: You may proceed. 09:32:39

17 EXAMINATION 09:32:39

18 BY MR. SCHMITT: 09:32:39

19 Q. Great. Good morning. Thank you, ma'am, 09:32:39  
20 for being here today. So I'm Paul Schmitt. I'm 09:32:43  
21 with ADF and I represent Bethel. And just as a 09:32:45

1 global thing for going forward, do you pre -- how 09:32:49  
2 do you prefer for me to address you? Would you 09:32:53  
3 like Mrs. Wise, Ms. Wise, Felicia, any -- anything? 09:32:56  
4 A. You can call me Felicia. That's fine. 09:32:59  
5 Q. Okay. I'm Paul. Call me Paul. I'll 09:33:01  
6 answer to whatever you call me, but -- but that's 09:33:03  
7 fine by me. 09:33:05  
8 A. Okay. 09:33:06  
9 Q. Okay. So thanks, Felicia. So as the 09:33:07  
10 court reporter said, this is -- have you -- first 09:33:13  
11 of all, have you ever been involved in a lawsuit 09:33:18  
12 before? 09:33:19  
13 A. No. 09:33:19  
14 Q. Okay. And have you ever been deposed 09:33:20  
15 before? 09:33:23  
16 A. No, this is my first deposition. 09:33:24  
17 Q. Okay. Great. So you're not a 09:33:26  
18 defendant. You're not in trouble here. That's not 09:33:28  
19 the point of today. What -- what we are doing is 09:33:31  
20 so like we're in what's called the discovery phase 09:33:36  
21 of this case and so in the U.S. that's a really a 09:33:38



1 broad thing, meaning like the parties exchange all 09:33:42  
2 kinds of documents and then we do these interviews 09:33:45  
3 called depositions where we try to get information 09:33:50  
4 either talking about the documents that we've got 09:33:52  
5 or trying to fill in the blanks. And so that's 09:33:55  
6 kind of what's going on. 09:33:58

7 I'm sorry we drug you in, but you know 09:34:00  
8 things that -- about how things went down relevant 09:34:02  
9 to this case so that's -- that's why I wanted to 09:34:05  
10 talk to you. And I tried to -- I -- I know you've 09:34:09  
11 taken time out of your schedule because I -- it's 09:34:12  
12 my understanding you're not at the MDSE anymore so 09:34:14  
13 I appreciate that you made yourself available. 09:34:17

14 Okay. So the other thing that's weird is 09:34:20  
15 normally we'd be around a table and I'd slide you 09:34:26  
16 documents and all that kind of stuff, but because 09:34:27  
17 of the world we live in now we're doing the Brady 09:34:31  
18 Bunch thing here. 09:34:34

19 And so there are probably some ground 09:34:37  
20 rules that I always like to run through with 09:34:40  
21 everybody. So the first -- one of the first things 09:34:43

1 is I'm going to ask is there anybody else in the 09:34:45  
2 room with you? 09:34:48

3 A. No. 09:34:48

4 Q. Okay. If someone comes in at any time, 09:34:49  
5 let us know. And the reason for that is like, you 09:34:52  
6 know, this -- unlike the Millionaire show, there's 09:34:56  
7 no phone-a-friend option here. All your answers 09:34:59  
8 have to be your own. And -- and you know, you were 09:35:02  
9 sworn in -- basically all I -- all I want to know 09:35:07  
10 is the truth as you remember it, you know, for 09:35:10  
11 whatever I'm asking about so... 09:35:14

12 Ms. Sheridan will probably instruct you 09:35:16  
13 at some point never to speculate or something or 09:35:18  
14 guess so just as long as you tell the truth as you 09:35:22  
15 remember it, that's good. 09:35:24

16 And then so no texting or phone calls or 09:35:26  
17 anything like that, instant messaging, all that. 09:35:29  
18 Don't -- don't do any of that because it's just -- 09:35:33  
19 we're going off of what you remember. 09:35:35

20 A. Okay. 09:35:37

21 Q. And I'm guessing you're able to see and 09:35:38

1 hear me clearly? 09:35:42

2 A. Yes. Mm-hmm. 09:35:43

3 Q. Okay. Good. And then do you have 09:35:43

4 anything in front of you, notes, documents, papers 09:35:46

5 of any kind? 09:35:50

6 A. No. Just water and a banana. 09:35:51

7 Q. Good. Good. I didn't eat my banana 09:35:54

8 today. I forgot about it. Okay. That's 09:36:00

9 good. So -- and then, you know -- let's see. Is 09:36:02

10 that everything? Oh, yeah, exhibits. Exhibits. 09:36:08

11 Because we're in this phase where I'm 09:36:13

12 asking about documents and all that, I'm going to 09:36:16

13 show you some of them. We're going to call them 09:36:18

14 exhibits. I put little numbers on them. 09:36:21

15 Because -- so the way this thing gets 09:36:28

16 used at the end of the day is it becomes a 09:36:28

17 transcript, right, so that's why the court reporter 09:36:33

18 is here. And so I'm going to ask you what seem 09:36:34

19 like really stupid questions. Like do you see 09:36:37

20 this? What does this say? Can you read that? 09:36:39

21 And what that -- the reason I'm doing 09:36:41

1 that is not because I'm trying to reveal that I'm 09:36:43  
2 not very smart and I'm not trying to make -- insult 09:36:44  
3 your intelligence. It's because I want someone who 09:36:47  
4 is reading the transcript later to be able to 09:36:50  
5 understand what we're talking about. 09:36:53

6 A. Okay. 09:36:56

7 Q. So -- so I might ask you do you see that 09:36:57  
8 I did this? You know, do you see this line? Do 09:36:59  
9 you see that it's marked this? And I'm just trying 09:37:02  
10 to get a yes out of you to confirm that we're 09:37:04  
11 talking about a particular document. So I'll do 09:37:07  
12 that. I'll show you things. 09:37:12

13 I'm going to use screen share and I'm 09:37:12  
14 using a software program that's going to produce 09:37:15  
15 the exhibit to your attorney and -- and I think the 09:37:17  
16 court reporter gets a copy of that too. Yeah. 09:37:23

17 If you can't see something, let me know. 09:37:26  
18 Because I'm doing it with screen share, if you need 09:37:28  
19 me to zoom in on something, let me know. 09:37:34

20 A. Okay. 09:37:36

21 Q. If you need me to zoom out, if you need 09:37:37

1 me to scroll, just say hey, could you -- you know, 09:37:41

2 Paul, could you scroll up or down. Let's 09:37:43

3 see. What else? Oh, yeah. 09:37:46

4 I try to make these not too early in the 09:37:50

5 morning when we were scheduling them. If you need 09:37:54

6 a break at any time for coffee or whatever -- you 09:37:57

7 know, bathroom or any reason like that, just let us 09:38:00

8 know and we'll take a break as long as we need. 09:38:03

9 And then the other thing is because of 09:38:06

10 the technology thing, if anything goes wrong, you 09:38:08

11 can't see something, if your connection gets broken 09:38:13

12 up, just let me know and we'll stop, pause; get it 09:38:16

13 figured out. 09:38:20

14 A. Okay. 09:38:20

15 Q. So I think that is it. I'm trying to 09:38:20

16 think if there's any other general ground rule 09:38:27

17 things. I think that might be it. So any 09:38:31

18 questions for me? 09:38:35

19 A. Nope. 09:38:36

20 Q. Okay. All right. Let's rock and roll 09:38:37

21 then. So where are we at? Okay. So first of 09:38:39

1 all -- yeah, that's what I need to do. So first of 09:38:49  
2 all, for the record, could you do me a favor; 09:38:52  
3 please tell me your name and then spell it. 09:38:54  
4 A. My name is Felicia Wise, 09:38:56  
5 F-E-L-I-C-I-A. Last name, Wise, W-I-S-E. 09:39:01  
6 Q. Okay. And Felicia, where do you live? 09:39:03  
7 A. I live at 1709 Prairie Court in Severn, 09:39:06  
8 Maryland. 09:39:10  
9 Q. Great. And what's your educational 09:39:11  
10 background? 09:39:17  
11 A. You just want like -- like my college 09:39:17  
12 education background? 09:39:21  
13 Q. Just your -- kind of like your 09:39:22  
14 educational bio. 09:39:26  
15 A. I went to high school at St. Mary's in 09:39:27  
16 Annapolis, Maryland. I went to college at Iona 09:39:32  
17 College in New Rochelle, New York for my 09:39:32  
18 Bachelor's. I have a Master's from the University 09:39:34  
19 of Maryland Global Campus now and I'm currently 09:39:37  
20 working on my doctorate at Jude College in higher 09:39:41  
21 education leadership. 09:39:45

1 Q. University of Maryland was like really a 09:39:45  
2 pioneer of online learning with that global 09:39:47  
3 campus. That was -- a lot of universities have 09:39:51  
4 tried to copy that in the meantime. It was very 09:39:53  
5 successful. That's great. And congratulations on 09:39:58  
6 your -- your continuing education. 09:40:01

7 A. Thank you. 09:40:02

8 Q. So then -- okay. So that's kind of what 09:40:03  
9 you've got going on educationally. How about 09:40:07  
10 professionally? What's your background there? 09:40:09

11 A. I started in retail management right out 09:40:11  
12 of high school because -- I mean, out of -- out of 09:40:15  
13 college because I didn't know what I wanted to do 09:40:16  
14 and then I segued into college access and higher 09:40:19  
15 education right after that. 09:40:24

16 So I went to work for an organization 09:40:27  
17 called CollegeBound Foundation out of Baltimore 09:40:28  
18 City for a few years and then I worked at Anne 09:40:32  
19 Arundel Community College in various offices, but 09:40:36  
20 majority -- the majority of the time was at the 09:40:39  
21 Arundel Mills location where I was the coordinator 09:40:40

1 for enrollment services there. 09:40:43

2 And then I worked for MSDE as a BOOST 09:40:44

3 program coordinator and currently I work as 09:40:47

4 director of scholarship for Carson Scholars Fund in 09:40:51

5 Towson. 09:40:54

6 Q. Okay. The -- that organization in 09:40:54

7 Baltimore City that you mentioned, what was that 09:40:58

8 one? 09:41:00

9 A. Sorry. CollegeBound Foundation. And I 09:41:00

10 did actually skip one. I worked for Hostelling 09:41:04

11 International between MSDE and Carson Scholars Fund 09:41:07

12 as the scholarship program coordinator as well. 09:41:12

13 Q. Okay. So for CollegeBound, what -- what 09:41:15

14 do they do? 09:41:18

15 A. CollegeBound helps kids in Baltimore City 09:41:19

16 with the college access process so they do college 09:41:23

17 and career access. You -- I was the college access 09:41:25

18 program specialist. I was stationed inside a 09:41:29

19 school where I worked in conjunction with the 09:41:32

20 guidance counselors to help students with things 09:41:35

21 like GPA, college admissions, college applications, 09:41:37



1 SAT prep, SAT fee waivers, and financial aid 09:41:43  
2 process, and all those types of things involving 09:41:46  
3 college and retention. 09:41:48

4 Q. Wow. That's cool. Interesting. And 09:41:50  
5 then -- okay. So then are you -- is your career 09:41:56  
6 effectively kind of really honed in into the 09:41:59  
7 education world at this point would you say? 09:42:03

8 A. Yeah. I'd say I'm pretty passionate 09:42:06  
9 about education and education equity and the 09:42:08  
10 ability for everybody to have access to it, and it 09:42:14  
11 be financially feasible for everybody. So I try 09:42:19  
12 to -- that's where I'm really passionate about, 09:42:21  
13 college access and retention and career readiness, 09:42:24  
14 and so that's what I decided to hone in on, which 09:42:27  
15 is why I'm currently working on my dissertation. 09:42:31

16 Q. My mom -- well, keep at it. My mom was 09:42:33  
17 working on her doctorate and had -- years ago and 09:42:36  
18 she never finished the dissertation. She was a 09:42:39  
19 school superintendent. But at any rate. I know 09:42:43  
20 once you finally get over that hump, based on my 09:42:46  
21 aunts, that's just like a really great feeling 09:42:50

1 so... Anyway... Okay. So let's see. You worked 09:42:52  
2 at MSDE then from roughly like what time to what 09:42:56  
3 time? 09:43:00  
4 A. I started MSDE around January of 2017 and 09:43:01  
5 I ended around late July 2018. 09:43:06  
6 Q. Okay. Great. And then you were the 09:43:13  
7 BOOST coordinator at that point? 09:43:17  
8 A. Yes. Mm-hmm. 09:43:20  
9 Q. And then did you know -- did you have any 09:43:20  
10 knowledge of like who ended up filling your role 09:43:24  
11 after you moved on or... 09:43:26  
12 A. No. As far as I knew, the role was 09:43:28  
13 vacant for a while and there was nobody in it. 09:43:32  
14 Q. Okay. And then so you moved on from 09:43:35  
15 MSDE. Why -- why did you make that move at that 09:43:40  
16 time? 09:43:43  
17 A. The position I was in was a contract 09:43:44  
18 position and it -- I mean, there's no security in a 09:43:45  
19 sense with a contract position or benefits and so 09:43:49  
20 on so the -- when I didn't -- when the position 09:43:53  
21 wasn't penned as they say for the State, I was 09:43:57

1 looking elsewhere to make sure I could find a 09:44:01  
2 position that was more consistent and it was less 09:44:03  
3 likely to possibly be gotten rid of or eliminated 09:44:06  
4 due to maybe program eliminations since the BOOST 09:44:10  
5 is a year-to-year program. 09:44:12

6 Q. Right. Right. Because it's in the 09:44:14  
7 Budget Bill every year, right? 09:44:16

8 A. Yes. 09:44:17

9 Q. Yeah. Okay. That makes sense. So -- so 09:44:18  
10 something a little more secure you were looking 09:44:20  
11 for? 09:44:24

12 A. Yes. 09:44:24

13 Q. Got it. Okay. That make sense. So -- 09:44:24  
14 and then -- so yesterday we talked to Jamie 09:44:27  
15 Klarman. So I think you probably -- he mentioned 09:44:31  
16 that you two worked together in not exactly the 09:44:34  
17 same role, but kind of similar roles during that 09:44:37  
18 time; is that right? 09:44:42

19 A. Yes. Jamie was in charge of the textbook 09:44:43  
20 program and the textbook program is a -- one of the 09:44:48  
21 caveats for the BOOST program is the school has to 09:44:53

1 be eligible to participate -- or participate in the 09:45:01  
2 textbook program to be able to -- to be eligible to 09:45:01  
3 participate in the BOOST program. 09:45:01

4 Q. Yeah. And I think it in some years it's 09:45:02  
5 even a prerequisite so you had to be in the 09:45:05  
6 program -- in textbooks first and then -- and then 09:45:08  
7 go the other way. 09:45:10

8 Did -- did you have effectively the same 09:45:13  
9 job duties that Jamie did for BOOST? You know, he 09:45:17  
10 had textbooks and then were yours kind of the 09:45:21  
11 similar ones to the BOOST program? 09:45:22

12 A. I never really understood the full 09:45:25  
13 capacity of Jamie's program. It was a little bit 09:45:28  
14 more. It was a little different than what I did 09:45:31  
15 and my program was a little newer. 09:45:34

16 I think his was pretty much a well-oiled 09:45:36  
17 machine where he had everything in place whereas 09:45:38  
18 the BOOST program was kind of new and there was 09:45:41  
19 kind of different components being implemented all 09:45:43  
20 the time. 09:45:46

21 I think I was -- I came in the second 09:45:47

1 year the program was running so things weren't as 09:45:47  
2 locked down as Jamie's program was. 09:45:50

3 Q. Got it. Okay. I was going to say you 09:45:53  
4 had to be pretty close to the beginning of BOOST 09:45:55  
5 because I think it started in 2016, if that's not 09:45:58  
6 wrong. Okay. So -- all right. So you start in 09:46:01  
7 January of '17 and left in -- around July of 2018. 09:46:07

8 So you really were at MSDE right in the 09:46:15  
9 critical time that I'm -- I'm going to ask you 09:46:17  
10 questions about because that's the time that my 09:46:20  
11 client, the Bethel School, was kind of in the 09:46:25  
12 process of getting evaluated. 09:46:29

13 So let me ask you just some kind of 09:46:32  
14 questions about that. So BOOST is going along. 09:46:34  
15 How did -- or gets created and some schools are 09:46:38  
16 participating. What was your job with respect 09:46:42  
17 to -- like just the day-to-day things you were 09:46:44  
18 doing for the program as you came on board? 09:46:47

19 A. I would answer emails and field telephone 09:46:50  
20 calls that were questions about BOOST, anything 09:46:55  
21 relevant to providing information to the schools 09:46:58

1 that were participating or interested in 09:47:01  
2 participating in the program. I handled the data 09:47:04  
3 entry. I would be on board meetings. 09:47:08  
4 I would get data together, information 09:47:13  
5 together, for my supervisor at the time who was 09:47:16  
6 Monica. And then for a short while it was Valerie 09:47:19  
7 Carpenter because she also came into the program 09:47:22  
8 towards the end of me, my time there. 09:47:26  
9 And I would provide any kind of feedback 09:47:28  
10 or input that they needed with regards to that. 09:47:31  
11 And that was pretty much it. 09:47:35  
12 Q. Gotcha. Okay. Yeah, we talked to 09:47:36  
13 Valerie the other day, too. Okay. So -- that's 09:47:40  
14 good. So then around -- so this is probably -- 09:47:46  
15 you'd been there maybe nine, ten months. Do you 09:47:51  
16 recall a complaint being lodged against one of the 09:47:57  
17 BOOST schools on the basis of having discriminatory 09:48:01  
18 language in its handbook? This would have been the 09:48:06  
19 fall of 2017. 09:48:10  
20 A. I do remember some -- yes, I -- I 09:48:11  
21 remember that. 09:48:13

1 Q. Okay. Do you remember what school was 09:48:13  
2 involved? 09:48:15

3 A. I think it was Trinity Lutheran. 09:48:16

4 Q. Okay. Yeah, that's -- that's my 09:48:20  
5 understanding, too. Do you remember the origin of 09:48:22  
6 the complaint or where that came from? 09:48:26

7 A. To my recollection, a parent had 09:48:29  
8 contacted Monica, my supervisor at the time, 09:48:36  
9 complaining -- or not complaining, but stating that 09:48:39  
10 we basically were giving money to a school that had 09:48:41  
11 discriminatory language in their handbook and that 09:48:46  
12 -- they basically said that we were violating what 09:48:49  
13 the BOOST law said. 09:48:53

14 Q. Sure. Okay. And then did you ever -- 09:48:55  
15 did you ever see the complaint? Did Monica forward 09:48:59  
16 that on to you at some point? 09:49:02

17 A. No, I don't recall seeing the complaint. 09:49:06

18 Q. Okay. So -- so the allegation comes in. 09:49:08  
19 Monica receives the complaint. You learn about it 09:49:13  
20 from her. Then, what happens next? 09:49:15

21 A. It was something that Monica said needed 09:49:22

1 to be brought to the Board and from what I -- and 09:49:25  
2 the Board was in -- the information was brought to 09:49:27  
3 the Board and the Board had a discussion about it, 09:49:31  
4 but I don't remember what the Board -- what the 09:49:33  
5 exact discussion was that the Board had. 09:49:36

6 Q. Sure. Okay. And so the Board has a 09:49:38  
7 discussion and then it seems like the situation 09:49:42  
8 kind of starts to balloon from there. Were there 09:49:46  
9 -- was -- was there another allegation against a 09:49:51  
10 different school or what -- what happened after 09:49:54  
11 Trinity Lutheran came to light? 09:49:57

12 A. I don't exactly remember what happened, 09:50:01  
13 but I just remember that something about that was a 09:50:10  
14 catalyst for the text -- the handbook reviews 09:50:15  
15 because it was in the guise of I believe that what 09:50:18  
16 -- we had been holding schools to an honor policy 09:50:23  
17 in regards to that and that's something we can no 09:50:27  
18 longer do because of this parent bringing this to 09:50:29  
19 our attention. 09:50:33

20 So now we need to go through handbooks to 09:50:35  
21 review everybody's handbook to make sure that 09:50:37



1 nobody has something in there that is violating the 09:50:38  
2 policy so this doesn't come up in the future and 09:50:41  
3 cause the program to be pulled as a whole. 09:50:43

4 Q. Right. Okay. That make sense. So -- so 09:50:45  
5 you mentioned that everybody was on kind of an 09:50:49  
6 honor basis before. How did you -- how did you 09:50:54  
7 hold those schools or how did that process work, 09:50:59  
8 the one that was kind of more on an honor-based 09:51:03  
9 system? 09:51:05

10 A. Initially the schools would just sign off 09:51:05  
11 on insurances -- assurances that the BOOST program 09:51:07  
12 had that -- I don't remember exactly what the 09:51:09  
13 assurances said, but they would sign off on 09:51:11  
14 assurances that they were meeting the requirements 09:51:13  
15 or that they met the requirements or they agreed 09:51:15  
16 with the guidelines of the program, and that's -- 09:51:19  
17 we took that at face value, that they were meeting 09:51:21  
18 it. And that is all that we would have from the 09:51:25  
19 schools. 09:51:28

20 Q. Sure. Okay. So do you remember or do 09:51:28  
21 you know where the idea for the assurance model 09:51:36

1 came from, like who came up with the idea to let's 09:51:40  
2 have these school -- 09:51:44  
3 A. I -- 09:51:44  
4 Q. -- assurances? 09:51:44  
5 A. That I don't know. That was -- predated 09:51:45  
6 me. 09:51:47  
7 Q. Yeah, I thought that probably was the 09:51:47  
8 case. Okay. So the assurances are going 09:51:50  
9 on. Trinity Lutheran it turns out has this 09:51:56  
10 language; this complaint gets lodged. Who decided 09:52:00  
11 that further investigation was needed into other 09:52:04  
12 schools? 09:52:07  
13 A. I believe it was the Board. 09:52:08  
14 Q. Okay. And so do you know roughly -- and 09:52:11  
15 by roughly I mean, I -- this has been some time for 09:52:19  
16 you so I'm not talking about an exact number, but 09:52:22  
17 maybe ballpark -- how many schools were in BOOST 09:52:27  
18 around that time? 09:52:30  
19 A. Geez. No, I definitely don't remember 09:52:31  
20 how many schools participated at that time. 09:52:34  
21 Q. Okay. If I told you it was somewhere 09:52:36

1 around 150 to 200, would that sound correct? 09:52:41

2 A. Yes, that does -- I mean, I think 150 09:52:46

3 sounds on the low end so yeah, but I do believe 09:52:49

4 those -- it was probably around that amount. 09:52:52

5 Q. Okay. So that would have been a lot of 09:52:54

6 handbooks to review, right? 09:52:57

7 A. Yes. 09:52:59

8 Q. Okay. So did the Board review all 09:52:59

9 150-plus handbooks? 09:53:04

10 A. The Board did not. Jamie Klarman and I 09:53:07

11 did. 09:53:10

12 Q. You had to go through all those 09:53:10

13 handbooks? 09:53:14

14 A. Yes. 09:53:14

15 Q. Okay. Okay. And that -- how long did 09:53:14

16 that take you guys to do? 09:53:18

17 A. I don't remember how long it took us to 09:53:21

18 do. 09:53:24

19 Q. Longer than a couple of weeks or... 09:53:26

20 A. No, I don't think it was longer than a 09:53:30

21 couple of weeks -- I mean, it wasn't a week, but I 09:53:34

1 don't think -- it wasn't a short amount of 09:53:37  
2 time. It took some time, but I don't -- we had to 09:53:39  
3 get handbooks from the institutions. So we had to 09:53:44  
4 solicit the handbooks and then wait for them to 09:53:47  
5 arrive, but it -- they had an -- an amount of time 09:53:50  
6 that they had to get us the handbooks so that we 09:53:52  
7 could review them in a timely manner for program 09:53:55  
8 implementation to move forward. 09:54:02

9 Q. Okay. So just as a -- as an aside, I 09:54:05  
10 work in our D.C. office and this building is 09:54:08  
11 located on a street that for some reason is 09:54:10  
12 perpetually being jackhammered so if you hear a 09:54:14  
13 knocking sound in the background, that's what it 09:54:18  
14 is. 09:54:22

15 A. Okay. 09:54:23

16 Q. I'm sorry. 09:54:23

17 A. That's okay. 09:54:24

18 Q. This is my life every day. So I'm going 09:54:24  
19 to mute this -- mute myself when I'm done the 09:54:29  
20 questions so you don't have to listen to that. One 09:54:32  
21 headache is enough for that. Okay. So -- so there 09:54:36

1 -- it took a little while, not terribly long, but 09:54:40  
2 you had to have a little process time to interact 09:54:44  
3 with the schools to -- to get that figured 09:54:47  
4 out. Okay. All right. I think I got it. So -- 09:54:51  
5 okay. So then -- okay. 09:54:58

6 So, you know, it's the old thing about 09:55:01  
7 how do you eat an elephant. So you've got all 09:55:04  
8 these handbooks to review and you and Jamie were 09:55:07  
9 the ones that had to do it. Walk me through the 09:55:11  
10 process that you guys used to do your handbook 09:55:14  
11 review. 09:55:18

12 A. Well, we split the list of schools up 09:55:18  
13 alphabetically so we would not have to review every 09:55:21  
14 single handbook and we would go through the 09:55:25  
15 handbook and look for admission policies or just 09:55:29  
16 any policies about discrimination or, you know, the 09:55:35  
17 nondisclosure -- any agreements that they had. 09:55:40

18 And sometimes we had to go through a 09:55:41  
19 whole handbook to look through things, whether it 09:55:43  
20 was the admissions policy or we had to look to the 09:55:47  
21 back to the disciplinary issue because some 09:55:48

1 admissions policies referred to their disciplinary 09:55:53

2 policies as well. And that was pretty much it. 09:55:55

3 If a school had concerning language, we 09:55:59

4 would put it to the side so that it could be 09:56:02

5 further evaluated by our supervisor. 09:56:06

6 Q. And your supervisor at the time was 09:56:10

7 Monica? 09:56:13

8 A. Yes. 09:56:14

9 Q. Okay. So -- okay. That make sense. So 09:56:14

10 you're going through and you're trying to screen 09:56:19

11 these things. Were you looking at -- like did guys 09:56:23

12 print all these things off? Did you look at them 09:56:26

13 on computers? How did that work? 09:56:29

14 A. Each of us had our own process. I don't 09:56:32

15 know what Jamie did. I know that if there were -- 09:56:35

16 Q. Oh, you froze. 09:56:46

17 A. -- like what -- what we were reviewing so 09:56:50

18 I would print out the admissions policy. 09:56:52

19 Q. You froze and you were giving an -- an 09:56:55

20 answer so if you could, could you state it again? 09:56:59

21 A. Yeah. I was saying I don't know what 09:57:02

1 Jamie did, but I know that I -- if a handbook was 09:57:06  
2 available online, I would review the handbook 09:57:11  
3 online and then I would print out the relevant 09:57:13  
4 information that was necessary or -- for what we 09:57:16  
5 were doing. 09:57:19

6 So of it was an admissions policy that 09:57:20  
7 was relevant or that might have been a trigger or 09:57:22  
8 have something in it, then I would print it out and 09:57:26  
9 put it to the side so it could be given to Monica 09:57:30  
10 so we would know what to do with it moving forward. 09:57:35

11 Q. Okay. That -- that makes sense. So then 09:57:40  
12 when you are pulling these things up and trying to 09:57:43  
13 look for the relevant portions and all that, if 09:57:46  
14 you're doing it on -- or pulling it off the 09:57:49  
15 Internet and looking at it on your computer, are 09:57:51  
16 using like a find function ever or are you reading 09:57:55  
17 every single page or how does -- how does that 09:57:58  
18 work? 09:58:01

19 A. No, we definitely -- I never used a find 09:58:01  
20 function. I literally would scroll through each 09:58:05  
21 page and read it. 09:58:09

1 Q. Okay. And then just the things that 09:58:10  
2 stuck out to you, you picked those out, printed 09:58:12  
3 them, and then set those aside? 09:58:16

4 A. Right. 09:58:19

5 Q. Okay. Okay. So then for the things 09:58:20  
6 that -- that caught your attention and set -- and 09:58:26  
7 you set aside, what would immediately happen to 09:58:29  
8 that? Would that go to Monica or was that ever -- 09:58:33  
9 like you had to have a meeting about it? What was 09:58:37  
10 the process once you identified concerning things? 09:58:40

11 A. So if we got too much -- or once we had 09:58:43  
12 concerning language, we would forward it to Monica 09:58:47  
13 and Monica would email us back and might say she 09:58:51  
14 would have to go to Liz and Alan to see what next 09:58:54  
15 steps would be or if -- what should be done and 09:58:58  
16 that would be it on my end. 09:59:01

17 Q. Okay. And Liz and Alan, were they from 09:59:04  
18 -- who were they? 09:59:10

19 A. Liz and Alan were the legal counsel for 09:59:10  
20 the MSDE for the BOOST program. 09:59:13

21 Q. Okay. And then did -- did -- okay. So 09:59:15



1     you're going through. These things might get           09:59:22  
2     forwarded to Monica. If they're more questionable,   09:59:27  
3     maybe they'll go to Liz and Alan.                   09:59:32  
4             What -- were you given anything when you    09:59:36  
5     started this process to go off of or what -- how      09:59:39  
6     were you to determine, you know, what to look for    09:59:44  
7     and that kind of thing? Did they give you           09:59:47  
8     instruction or how did that work? Hello?            09:59:49  
9             MS. SHERIDAN: I think she froze again.      10:00:00  
10    She looks frozen.                                    10:00:03  
11             MR. SCHMITT: She does look frozen. Come    10:00:09  
12    back.   10:00:09  
13             THE VIDEOGRAPHER: I wanted to give her a    10:00:20  
14    moment to come back, but she is still frozen on my    10:00:21  
15    end, too. Okay. I'll get us off the record. Off      10:00:24  
16    the video record at 10:00.                           10:00:29  
17             (Whereupon, a brief recess was taken.)      10:01:18  
18             VIDEOGRAPHER: Back on the record at        10:01:25  
19    10:01 a.m.    10:01:29  
20    BY MR. SCHMITT:                                      10:01:32  
21             Q. Oh, we're back. Sorry. Okay. So I        10:01:32

1 think what I had asked was you had just told me 10:01:46  
2 before you froze that stuff gets to the side, 10:01:50  
3 eventually it might go to Monica, then maybe Liz 10:01:55  
4 and Alan if it's more -- more questionable or 10:01:57  
5 concerning. 10:02:01

6 So my question was: So back at the 10:02:01  
7 beginning of the process had -- had you received 10:02:06  
8 any -- and kind of information on what to look for 10:02:09  
9 or what were -- things were that you should be 10:02:12  
10 keeping an eye out for at the beginning when you 10:02:16  
11 started in on this? 10:02:20

12 A. No, we didn't have anything that was like 10:02:23  
13 here are the guidelines for what you need to look 10:02:27  
14 for. We really were just going through the 10:02:30  
15 handbooks for admission policies -- admissions and 10:02:33  
16 retention policies. There was nothing that told us 10:02:36  
17 what to look for as far as list -- specific type of 10:02:40  
18 language or anything like that. 10:02:44

19 Q. Okay. So was it just kind of a judgement 10:02:45  
20 call that you had to make at the time? 10:02:48

21 A. Yes. Initially -- well, I don't want to 10:02:51

1 say a judgement call. Initially it was, you know, 10:02:55  
2 does this look like something that might be a 10:02:58  
3 problematic language moving forward similar to what 10:03:01  
4 Trinity Lutheran had in their handbook and we -- I 10:03:04  
5 guess that is like a judgement call, but it was 10:03:06  
6 just to say is this similar to the language we saw 10:03:09  
7 in the handbook that produced the problem, put it 10:03:11  
8 to the side, and that's what we did. 10:03:13

9 Q. Okay. Okay. That makes sense. So 10:03:15  
10 you're going through these handbooks. You're 10:03:19  
11 setting things aside. Maybe they get sent to 10:03:22  
12 Monica; maybe they go elsewhere. What happens? 10:03:25  
13 Walk me through the next -- if -- if you please I 10:03:30  
14 guess, walk me through like what the next things 10:03:33  
15 that occur are. 10:03:35

16 A. So we had -- I don't want to say quite a 10:03:37  
17 a few. I don't -- it wasn't a lot, but there were 10:03:41  
18 more than a few handbooks that had language in 10:03:45  
19 them, but they weren't all the same exact language 10:03:46  
20 so we presented that to Monica and eventually we 10:03:49  
21 got a paper that had like the different categories 10:03:56

1 of language, like category one, two, and three, 10:04:02  
2 that we could use as further guidance moving 10:04:06  
3 forward to kind of split up any of the handbooks 10:04:11  
4 that might have had problematic language or 10:04:13  
5 language that could be seen as problematic as far 10:04:16  
6 as severity went so that we could move forward with 10:04:19  
7 the process that way. 10:04:24

8 Q. Sure. Okay. So how far into the process 10:04:25  
9 were you when you got that -- that paper? 10:04:29

10 A. That I do not remember. 10:04:33

11 Q. Okay. And when -- when did this start? 10:04:37  
12 Would this have been -- because I know the Trinity 10:04:40  
13 Lutheran thing was in the early fall like maybe 10:04:47  
14 October. Do you remember when the full handbook 10:04:48  
15 review started? 10:04:50

16 A. I don't remember when the full handbook 10:04:52  
17 review started. I -- I -- I don't -- it wasn't 10:04:54  
18 long after because I know we had to offer a time 10:04:58  
19 for the schools to submit the information so that 10:05:02  
20 we could allow them to either -- to send it to us, 10:05:06  
21 but also to be able to participate in the program 10:05:11

1 in a timely manner, because the program still had 10:05:14  
2 the deadlines that the program had. 10:05:18

3 Q. Okay. So you said you didn't want to say 10:05:21  
4 a lot of schools, but there were a number of 10:05:22  
5 schools that you guys identified. How many would 10:05:25  
6 you say ballpark were there? 10:05:31

7 A. I don't remember. I -- I can't remember 10:05:34  
8 how many that there were. 10:05:36

9 Q. Okay. And as you were doing one half of 10:05:38  
10 the -- or one portion of the alphabet -- I don't 10:05:44  
11 know where exactly the split. I don't think you 10:05:46  
12 told me where the -- what letters you had or 10:05:49  
13 whatever, but you had a portion of the alphabet, 10:05:53  
14 right? 10:05:58

15 A. Yes. Mm-hmm. 10:05:58

16 Q. Do you remember what -- what the letters 10:05:58  
17 were that you were responsible for? 10:06:00

18 A. I don't remember. For some -- for some 10:06:03  
19 reason I want to say I had the beginning of the 10:06:07  
20 alphabet like A through L or something like that 10:06:09  
21 comes to mind, but I don't -- I don't remember 10:06:12

1 exactly. 10:06:15

2 Q. Okay. Okay. So -- and then you -- you 10:06:15

3 did your thing and Jamie did his thing and you both 10:06:22

4 had different processes. Would you guys -- I may 10:06:25

5 have -- you may have told me that but because of 10:06:31

6 all the freezing and jackhammering and everything, 10:06:32

7 so I apologize if -- if you did. 10:06:35

8 But did you guys confer then on schools 10:06:37

9 or -- or was it more you each had your stack and 10:06:40

10 those got referred? 10:06:43

11 A. If there was language that we thought 10:06:45

12 would be problematic or that -- or I know that if I 10:06:48

13 saw something that I thought was questionable and I 10:06:50

14 was -- I would go to Jamie for a second opinion to 10:06:53

15 make sure before I moved it -- put it to the side 10:06:57

16 to say that this is definitely something that 10:07:00

17 needed to be forwarded to Monica on the list of 10:07:03

18 problematic language. 10:07:08

19 Q. Okay. Did you guys ever disagree on 10:07:09

20 language or have different opinions on it or was it 10:07:13

21 pretty -- or was there a lot of consensus? 10:07:17

1 A. Most of the time I want to say there was 10:07:19  
2 consensus. There might have been a few times where 10:07:21  
3 we had some I don't want to say disagreement, but 10:07:24  
4 we might have been like well, I don't know; it 10:07:29  
5 doesn't seem like it to me, but maybe. So we would 10:07:32  
6 put it to the side to let somebody else make the 10:07:35  
7 call. 10:07:38

8 Q. Okay. So -- so as far as things that 10:07:38  
9 were concerning or problematic, what types of -- 10:07:43  
10 what are like phrases or examples of things that 10:07:48  
11 you saw that you flagged or said -- or that caused 10:07:52  
12 a handbook to be set aside? 10:07:55

13 A. Anything that might have referenced 10:07:58  
14 admission policy being -- admissions -- admissions 10:08:06  
15 or retention being linked to a student's sexuality 10:08:11  
16 or a family dynamic as far as sexuality goes or 10:08:17  
17 traditional family marriage might go or being 10:08:22  
18 admitted, but then kicked out of school for 10:08:28  
19 something that was a violation of some kind of a 10:08:30  
20 same sex identifier or something like that was also 10:08:34  
21 something that would be a trigger that we would put 10:08:40

1 to the side. 10:08:43

2 If something referenced biblical values 10:08:44

3 or another form that needed to be signed, we would 10:08:48

4 put that to the side so we could get the form to 10:08:53

5 see what it was saying. And then something that 10:08:56

6 might list Bible verses, but not have the bible 10:09:02

7 verse in there we might put to the side so that it 10:09:05

8 could be reviewed since that might cause further 10:09:09

9 instigation into what needed to be looked at 10:09:13

10 because it wasn't clear. 10:09:15

11 Q. Okay. That makes sense. So let me -- I 10:09:17

12 want to see if I've got that paper that you're 10:09:25

13 talking about. I think I do. And this is always 10:09:29

14 an ordeal when I try to do an exhibit. I 10:09:32

15 appreciate your patience in advance. Let me review 10:09:37

16 this. 10:09:40

17 (Whereupon, a brief pause was taken for 10:10:38

18 document examination.) 10:10:38

19 Q. Okay. Sorry about that. I think I found 10:10:38

20 it and it should show up in the Exhibit 10:10:41

21 Share. Sorry. This is previously marked Exhibit 10:10:45



1 33. I'll show you now. 10:10:50

2 (Whereupon, 2018.01.09 Bethel Defendants 10:10:54

3 1332 - MSDE and BOOST chair received legal guidance 10:10:54

4 memo was entered as Deposition Exhibit No. 33 by 10:10:54

5 counsel in Exhibit Share.) 10:10:54

6 BY MR. SCHMITT: 10:10:59

7 Q. That's interesting. My screens have 10:10:59

8 renumbered themselves overnight. That's 10:11:01

9 interesting. Okay. Do you see -- do you see a 10:11:04

10 document with a sticker on it now? 10:11:08

11 A. Mm-hmm. 10:11:12

12 Q. Okay. Okay. So this is marked Exhibit 10:11:12

13 33 and it's got a -- these are called Bates stamps, 10:11:17

14 these little things that lawyers put on their 10:11:21

15 documents. 10:11:24

16 A. Okay. 10:11:24

17 Q. It's got a Bates stamp on there Bethel 10:11:25

18 Defendants 1332.001, right? 10:11:29

19 A. Yes. Yes. 10:11:35

20 Q. Okay. Do you see at the top it's got 10:11:36

21 Office of the Attorney General letterhead on it? 10:11:39

1 A. Yes. Mm-hmm. 10:11:43

2 Q. Okay. And it's dated January 9th, 2018, 10:11:45

3 correct? 10:11:49

4 A. Yes. 10:11:50

5 Q. Does this look like the paper you 10:11:51

6 referred to earlier? 10:11:54

7 A. Yes. Mm-hmm. 10:11:56

8 Q. Okay. And then I'm going to go to the 10:11:57

9 second page. Do you see these three -- this 10:12:01

10 bulleted list with three points? 10:12:04

11 A. Yes. 10:12:07

12 Q. Okay. Were these the three categories 10:12:07

13 that you were talking about earlier? 10:12:10

14 A. Yes. 10:12:13

15 Q. Okay. And those were for -- for -- 10:12:13

16 which -- which schools fell into these three 10:12:18

17 categories again? 10:12:21

18 A. I don't know -- I mean, I don't know the 10:12:23

19 exact schools that fell into it. It would be any 10:12:25

20 school that was BOOST-related, but my -- the 10:12:28

21 schools that are listed in these three categories 10:12:32

1 are the schools that were probably -- well, not 10:12:36  
2 probably. 10:12:39

3 They were the schools that were first 10:12:39  
4 identified from going through the handbooks that 10:12:41  
5 were questionable so that we needed additional 10:12:43  
6 guidance. This is -- these were the schools of the 10:12:47  
7 languages that went to Monica first and then I 10:12:49  
8 guess this is where -- I shouldn't say guess, but 10:12:55  
9 this was in response to that so that we could 10:12:57  
10 continue to move forward with reviewing handbooks. 10:12:59

11 Q. Okay. Let's see here. So just so 10:13:03  
12 I've -- I've got this right. So basically it's the 10:13:11  
13 handbooks that you and Jamie identified. They 10:13:14  
14 would get placed into one of these three 10:13:16  
15 categories; is that right? 10:13:22

16 A. Right. So Jamie and I went through the 10:13:23  
17 handbooks of the schools participating. A school 10:13:26  
18 would get put in one of these three categories -- 10:13:29

19 Q. Okay. 10:13:33

20 A. -- if they had language. 10:13:33

21 Q. Okay. Great. Let me see there because I 10:13:34

1 think -- I think I have a list of schools that 10:13:37  
2 maybe went through this process so let's see if I 10:13:44  
3 got that somewhere. Okay. Where did that go? 10:13:47  
4 Sorry. Bear with me one second. 10:14:02  
5 (Whereupon, a brief pause was taken for 10:14:43  
6 document examination.) 10:14:43  
7 Q. Okay. I think I've figured it out 10:15:14  
8 here. Let me see here. Sorry about the 10:15:18  
9 jackhammering. 10:15:27  
10 A. It's okay. 10:15:29  
11 (Whereupon, 2018.03.07 Bethel-Gallagher 10:15:30  
12 0568 - List of Cat3 or noncompliant schools was 10:15:30  
13 entered as Exhibit No. 34 by counsel in Exhibit 10:15:30  
14 Share.) 10:15:30  
15 BY MR. SCHMITT: 10:15:30  
16 Q. So I've marked this Exhibit 34. I think 10:15:30  
17 it was previously marked 34 and it's got a Bates 10:15:34  
18 stamp of Bethel-Gallagher 0568. Do you see that? 10:15:36  
19 A. Yes. 10:15:44  
20 Q. Okay. It's got two lists on there. It's 10:15:44  
21 got one at the top called BOOST Schools with 10:15:49

1 Handbooks that Do Not Comply with the BOOST 10:15:52  
2 Nondiscrimination Requirements and then it says 10:15:52  
3 BOOST Schools in Handbook Category 3 of the Legal 10:16:00  
4 Advice Memo on Nondiscrimination Requirements. Do 10:16:00  
5 you see that? 10:16:12  
6 A. Yes. 10:16:13  
7 Q. Okay. And the top category is dated 10:16:13  
8 March 7th of 2018 and the bottom category is -- or 10:16:17  
9 list I should say is dated in April 2018; is that 10:16:22  
10 right? 10:16:27  
11 A. Yes. 10:16:28  
12 Q. Okay. Go ahead and take a second -- 10:16:28  
13 sorry. Sorry again for the jackhammering. Go 10:16:33  
14 ahead and take a second to just kind of look 10:16:36  
15 through and see if you recognize and remember it 10:16:38  
16 and then once you're done or if you need me to 10:16:42  
17 scroll, let me know. 10:16:46  
18 A. You can scroll. 10:16:53  
19 (Whereupon, a brief pause was taken for 10:17:06  
20 document examination.) 10:17:06  
21 A. Can you scroll up a little -- go back up 10:17:06

1 some? Okay. Okay. 10:17:11

2 Q. Okay. So do you recognize this document? 10:17:15

3 Have you seen it before? 10:17:20

4 A. I do recognize the document because I'm 10:17:22

5 -- I'm probably the one that pulled the data 10:17:27

6 together for the document for the number of 10:17:29

7 students that were at the schools since that was 10:17:31

8 something that was part of my job. 10:17:34

9 So I probably gave these numbers to 10:17:35

10 Monica for the report that she -- that is right 10:17:38

11 here in front of us. 10:17:41

12 Q. Okay. Great. And then so Felicia, the 10:17:42

13 top list has nine schools listed there and then the 10:17:48

14 bottom list has about 11. Would that -- would that 10:17:57

15 be probably the universe of schools that got set 10:18:01

16 aside when you and Jamie were doing the review? 10:18:05

17 A. Probably. That's probably about right. 10:18:11

18 If something else got set aside -- I don't 10:18:20

19 remember, but if something else got set aside, it 10:18:22

20 could have been from a school that decided not to 10:18:25

21 participate so they were no longer part of the 10:18:27

1 program, so that they would have been taken out of 10:18:31  
2 the list. 10:18:33

3 Q. Got it. Okay. And do you remember -- do 10:18:35  
4 you remember reviewing these handbooks for any of 10:18:43  
5 these schools? 10:18:44

6 A. I vaguely remember reviewing Highland 10:18:46  
7 View Academy. I definitely -- well, I know I 10:18:50  
8 looked at Trinity Lutheran. We all had to look at 10:18:53  
9 that because that was the school that triggered 10:18:56  
10 everything to begin with. I remember seeing 10:18:59  
11 Woodstream, but I don't know if I was the person 10:19:05  
12 that reviewed it. I remember seeing Bethel's. I 10:19:08  
13 don't know if I -- I don't know if I was the 10:19:11  
14 initial reviewer. I remember looking at Mt. Aetna; 10:19:13  
15 I remember Spencerville, reading -- looking over 10:19:21  
16 theirs. 10:19:25

17 At some point I would have looked at all 10:19:25  
18 of these though because -- I mean, we probably 10:19:28  
19 would have looked at them numerous times because 10:19:31  
20 they were presented to the Board a couple of times 10:19:32  
21 too to review the language for. 10:19:34

1 Q. Okay. That makes sense. And you were 10:19:36  
2 telling me earlier you thought you had the 10:19:39  
3 beginning or at least the first chunk of the 10:19:42  
4 alphabet, right, so A -- 10:19:45

5 A. I think so. 10:19:48

6 Q. Okay. So that would make sense that you 10:19:48  
7 remember reviewing Bethel's. Okay. Did you -- do 10:19:50  
8 you remember ever reviewing a handbook from a 10:19:56  
9 school that -- like one of these BOOST schools that 10:20:01  
10 was not a religious school? 10:20:05

11 A. I'm sorry, can you repeat the question? 10:20:06

12 Q. Yeah. Do remember ever reviewing a 10:20:10  
13 handbook for a school that was not a religious 10:20:12  
14 school? So it would be like a secular private 10:20:18  
15 school. 10:20:22

16 A. Yeah, we reviewed -- we reviewed 10:20:22  
17 handbooks for every school that was a participant 10:20:24  
18 that was -- whether it was a parochial school, a 10:20:26  
19 Catholic school, a religious-affiliated school, or 10:20:30  
20 just a regular nonreligious-affiliated private 10:20:33  
21 school as well. 10:20:37



1 Q. Okay. Do you remember ever flagging for 10:20:37  
2 further review a handbook from a nonreligious 10:20:41  
3 school? 10:20:45

4 A. I don't remember, no. 10:20:45

5 Q. Okay. Okay. So let's take a different 10:20:52  
6 document. Let me mute because of the noise. It 10:21:01  
7 may take me a while to figure out the next document 10:21:22  
8 I need to pull up because the way the thing appears 10:21:26  
9 on my screen the titles or really short. Geez. 10:21:30  
10 Great. 10:21:34

11 So -- so as far as you flagged these 10:21:34  
12 schools and maybe they get referred one way or the 10:21:40  
13 other, what happens next once they're flagged 10:21:44  
14 and -- and Monica gets to review them and they get 10:21:49  
15 referred one way? 10:21:51

16 A. The process began to be that once a 10:21:52  
17 school was flagged and put into a category, the 10:21:55  
18 Board would then review the handbooks at a board 10:22:04  
19 meeting to see what the problem with the language 10:22:07  
20 was and see what the solution would be. 10:22:09

21 The -- they provided on opportunity for 10:22:13

1 all schools to fix the language that were in their 10:22:16  
2 handbooks or to -- they didn't tell them what to do 10:22:19  
3 with the language, but they just said, you know, 10:22:21  
4 you could amend it so that it was in line with the 10:22:24  
5 BOOST guidelines so they weren't violating anything 10:22:28  
6 anymore. 10:22:33

7 And then they -- from there the school 10:22:33  
8 would either be in compliance or they would -- if 10:22:35  
9 they decided not to, they could not participate, 10:22:38  
10 but they would be responsible for -- the Board had 10:22:41  
11 to decide whether they'd have to pay the money back 10:22:43  
12 that they got from BOOST before or not. They were 10:22:47  
13 -- 10:22:49

14 Q. Okay. Go ahead. 10:22:49

15 A. They were told that -- they were told 10:22:49  
16 that they couldn't have any adverse financial 10:22:54  
17 implications for the families of the kids that were 10:22:57  
18 there already that were BOOST recipients. 10:22:58

19 Q. Okay. That make sense because you don't 10:23:01  
20 want to punish the kids for -- for something they 10:23:04  
21 didn't do. Okay. So that make sense. So the 10:23:10

1 Board -- well, we'll get to -- well, let's think 10:23:15  
2 about the clawback thing later. 10:23:19  
3 As far as like the opportunity to fix the 10:23:22  
4 language in the handbook, I know they didn't tell 10:23:24  
5 them what to do, but were there -- did you ever 10:23:27  
6 present these schools with -- did the schools ask 10:23:31  
7 for assistance in how to fix their handbook or 10:23:36  
8 guidance one way or the other? 10:23:39  
9 MS. SHERIDAN: She froze again. 10:23:45  
10 MR. SCHMITT: Bummer. 10:23:52  
11 THE WITNESS: I'm back again, but I don't 10:24:01  
12 know why it keeps freezing. 10:24:03  
13 BY MR. SCHMITT: 10:24:05  
14 Q. That's okay. That was pretty not 10:24:05  
15 disruptive. So we were talking about -- well, 10:24:08  
16 we'll -- I was going to say we'll talk about the 10:24:13  
17 clawback thing later. But as far as like 10:24:15  
18 opportunities to fix the handbooks, did the schools 10:24:19  
19 ever ask for guidance or advice on how to fix their 10:24:22  
20 handbooks? 10:24:28  
21 A. That I don't remember. I don't remember 10:24:29

1 if they asked for guidance or not on what to do 10:24:29

2 with the handbooks. 10:24:33

3 Q. And I know you said the Board didn't tell 10:24:34

4 them what to do, but were there -- what were some 10:24:36

5 of the ways the schools could fix their handbooks? 10:24:41

6 A. Some of the schools just eliminated the 10:24:45

7 language altogether, they just removed it or they 10:24:47

8 removed the certain part of the language that was 10:24:49

9 considered problematic. And was pretty much it. 10:24:50

10 Some schools decided not -- decided to 10:24:55

11 remove themselves from the program if they did not 10:24:57

12 want to change the language because of the 10:24:59

13 guidelines of the program and their -- how they 10:25:02

14 felt about that regulation within their handbook, 10:25:05

15 and they didn't want to -- they figured that they 10:25:08

16 would rather just not participate. 10:25:10

17 Q. Did -- did any of the schools fix their 10:25:13

18 handbooks by adding language? 10:25:18

19 A. I don't remember. 10:25:23

20 Q. I'm going to -- I'm sorry. It's really 10:25:26

21 obnoxious, the jackhammering. Okay. So the -- the 10:25:40

1 schools are -- are given the opportunity to fix 10:26:14  
2 their handbooks. How -- how were they told what 10:26:16  
3 the problem -- are you frozen again? 10:26:19  
4 A. No, I'm here. 10:26:21  
5 Q. You were very still and I was like -- 10:26:24  
6 A. I'm listening. 10:26:26  
7 Q. How were they told what the problem was? 10:26:27  
8 A. I believe they were emailed that they had 10:26:34  
9 a problematic language in their handbook and that 10:26:38  
10 they could fix it to come into compliance. 10:26:42  
11 Q. Okay. Did the email tell them what 10:26:46  
12 exactly the problem was? 10:26:50  
13 A. I believe the email had the area that was 10:26:52  
14 their problematic language in each of the emails 10:26:58  
15 that went out to the schools that could be seen 10:27:02  
16 in -- not in compliance with BOOST law. 10:27:05  
17 Q. Got it. Okay. I'm going to pull up 10:27:08  
18 another thing. Hang on one second. 10:27:13  
19 (Whereupon, 2018.03.05 Kearns letters to 10:27:53  
20 flagged schools identifying problematic language 10:27:53  
21 BD3526 was entered as Exhibit No. 59 by counsel in 10:27:53

1 Exhibit Share.) 10:27:53

2 BY MR. SCHMITT: 10:27:53

3 Q. Okay, Felicia. So I'm going to share 10:27:53

4 another exhibit -- 10:27:57

5 A. Okay. 10:28:00

6 Q. -- that I previously had marked 10:28:00

7 59. Let's see here. Where is that at? Okay. Do 10:28:04

8 you see this? 10:28:10

9 A. Yes, I do. 10:28:11

10 Q. Okay. I'll zoom in a little bit. So 10:28:12

11 it's Exhibit 59. It's got a Bates stamp Bethel 10:28:17

12 Defendants 3526 on it. 10:28:23

13 A. Okay. 10:28:27

14 MR. SCHMITT: And Allison, if you ever 10:28:27

15 can't hear me or something, just let me know. I 10:28:28

16 don't think it's as obnoxious to you guys, but it's 10:28:31

17 very distracting to me. 10:28:33

18 BY MR. SCHMITT: 10:28:36

19 Q. Okay. So Exhibit 59 and do you see that 10:28:36

20 it's got MSDE letterhead on it? 10:28:40

21 A. Yes, I do. 10:28:43

1 Q. I'm going to scroll down to the second 10:28:44  
2 page. Do you see that it's signed by Monica? 10:28:47  
3 A. Yes. 10:28:51  
4 Q. Okay. Do you recognize this or know what 10:28:51  
5 it is? 10:28:55  
6 A. It appears to be a letter to the school 10:28:56  
7 -- one of the schools -- this one is Arundel 10:28:59  
8 Christian -- letting them know what language was 10:29:04  
9 inappropriate that was found in their handbook and 10:29:10  
10 how it was not in compliance with the BOOST 10:29:15  
11 program. You can scroll down a little bit more. 10:29:19  
12 MS. SHERIDAN: Is the question asking her 10:29:37  
13 to read it? 10:29:39  
14 MR. SCHMITT: No, just to identify what 10:29:39  
15 it is. 10:29:41  
16 THE WITNESS: Yeah, I -- can you scroll 10:29:41  
17 down more? Okay. So this is the -- a document 10:29:44  
18 that was sent out to any of the schools that were 10:30:00  
19 found to be issue -- have problematic language 10:30:03  
20 allowing them an opportunity to elaborate on what 10:30:08  
21 that means. 10:30:12

1           So for example, if you scroll up a little 10:30:14  
2 bit more, "engaging in sexual activity inconsistent 10:30:19  
3 with scriptural teaching" is a very broad 10:30:21  
4 statement. 10:30:26

5           So the Board presented an opportunity for 10:30:27  
6 schools to -- or Monica submitted and gave a letter 10:30:29  
7 and gave an opportunity for schools to be able to 10:30:33  
8 explain what that meant so that it could be found 10:30:37  
9 to be either in compliance with the program or see 10:30:40  
10 if it violated things further. 10:30:42

11           So these things were highlighted in the 10:30:45  
12 documents that were given to the schools that were 10:30:48  
13 seen as not in compliance or problematic so that 10:30:51  
14 they could provide us with an opportunity -- to -- 10:30:55  
15 to state their position on things so they could be 10:30:58  
16 moved forward in the program or not. 10:31:01

17 BY MR. SCHMITT: 10:31:03

18 Q. Okay. And so because this is Arundel and 10:31:03  
19 it starts with an A, would you have been the one 10:31:06  
20 who initially reviewed their handbook? 10:31:10

21 A. Again, I don't -- if that -- at some 10:31:12



1 point I looked at all of them because everybody had 10:31:15  
2 to look at them. I believe Jamie would have looked 10:31:17  
3 at all of them, too. Not all the handbooks, but 10:31:21  
4 all the ones that were flagged as problematic would 10:31:24  
5 have been looked at by both of us. 10:31:28

6 Q. And there are highlighted portions on 10:31:29  
7 here that you referred to earlier. Are those -- 10:31:30  
8 that's the language that got flagged? 10:31:32

9 A. Correct. 10:31:35

10 Q. Okay. I'm going to keep scrolling 10:31:35  
11 down. This kind of came in a big packet. So do 10:31:40  
12 you see this letter? 10:31:43

13 A. Yes. 10:31:44

14 Q. Okay. And this is a similar letter 10:31:45  
15 addressed to a different school? 10:31:48

16 A. Yes. 10:31:50

17 Q. Okay. What school is it addressed to? 10:31:50

18 A. Bethel Christian Academy. 10:31:59

19 Q. Okay. And what was the language that got 10:32:00  
20 flagged from Bethel? 10:32:03

21 A. For Bethel it was the language underneath 10:32:05

1 their Statement of Nondiscrimination that 10:32:09  
2 specifically said it should be noted that they 10:32:11  
3 support a biblical view of marriage and that 10:32:14  
4 students, staff, and faculty are expected to pretty 10:32:16  
5 much adhere to this policy. 10:32:21

6 Q. Okay. And there's some scriptural 10:32:23  
7 references in there too, right? 10:32:28

8 A. Yes. 10:32:29

9 Q. Okay. I'm going to keep -- keep on 10:32:30  
10 trucking here. And then this is -- is this the 10:32:34  
11 same type of letter for Cathedral Christian 10:32:37  
12 Academy? 10:32:40

13 A. Yes. 10:32:43

14 Q. So this would be in the first part of the 10:32:43  
15 alphabet. What was the language that got flagged 10:32:46  
16 for Cathedral? 10:32:50

17 A. The language that was flagged for 10:32:52  
18 Cathedral was pretty much the same. When you -- 10:33:03  
19 that -- provide a vague response such as something 10:33:07  
20 like Christian parenting and sharing of scripture 10:33:10  
21 and biblical values and lifestyles without 10:33:16

1 elaborating on what that means exactly, it's 10:33:20  
2 something that it was flagged so that the school 10:33:22  
3 could provide additional input into what that 10:33:23  
4 meant. 10:33:27

5 Q. Okay. And this page has got a Bates 10:33:27  
6 stamp of Bethel Defendants 3526.005, right? 10:33:31

7 A. Yes. 10:33:35

8 Q. Okay. Okay. Okay. Elvaton. Okay. So 10:33:35  
9 this is -- is this the same -- I've scrolled down 10:33:43  
10 to Bethel Defendants 3526.007; is that right? 10:33:47

11 A. Yes. 10:33:53

12 Q. Looking at this one, I think this is for 10:33:53  
13 Elvaton Christian Academy. What was the language 10:33:57  
14 in Elvaton's handbook that got flagged? 10:34:04

15 A. The same thing, a vague description of a 10:34:07  
16 statement of doctrinal belief for the schools as 10:34:11  
17 long -- that was a guideline for a parent to -- a 10:34:14  
18 supportive in the administrations of students to be 10:34:19  
19 able to be at the school. 10:34:21

20 Q. Okay. And I think there's more on the 10:34:23  
21 second page. Could you identify that? That might 10:34:25

1 have been what you just said. 10:34:30

2 A. Oh, okay. Yes. So the statement of doc 10:34:31  
3 -- of doctrinal beliefs is on there. 10:34:33

4 Q. Okay. What -- what in the statement of 10:34:37  
5 doctrinal beliefs got flagged? 10:34:41

6 A. The ones that said that -- the -- in the 10:34:45  
7 home, the important beliefs that they believe that 10:34:54  
8 "God has given to the parents and the home the 10:34:57  
9 responsibility to bring up their children in the 10:34:59  
10 nurture and admonition of the Lord. 10:35:00

11 The consistent and whole education will 10:35:03  
12 occur when home, church, and school work closely 10:35:05  
13 together and are in agreement with the basic 10:35:06  
14 concepts of life." 10:35:08

15 So the things that are flagged are 10:35:08  
16 relevant to the practice of more traditional -- I 10:35:10  
17 guess in regards to the Bible verse and more 10:35:20  
18 traditional family values. 10:35:23

19 Q. Okay. Let's see. So were they -- were 10:35:28  
20 the traditional family values understood to be 10:35:42  
21 discriminatory against homosexuals? 10:35:45

1           A.     No. I mean, if -- if we were referenced     10:35:50  
2     with a Bible verse or something that was             10:35:51  
3     religious-based doctrine, we didn't make an           10:35:53  
4     assumption that that's what it was.                 10:35:56

5                     So not that it was discriminatory, but we     10:35:57  
6     wanted further -- further explanation of what that     10:36:00  
7     meant so that -- I -- I mean, we didn't assume that     10:36:03  
8     we understood what the school meant just like we       10:36:07  
9     don't assume that the families that are applying to     10:36:10  
10    put the kids in the school know what the school        10:36:12  
11    means by that mean so...                             10:36:13

12           Q.     Okay. So I've -- I've scrolled down now     10:36:14  
13    and you probably wouldn't have been the first one       10:36:16  
14    on this. This was probably would have been Jamie       10:36:18  
15    because it starts with an S.                             10:36:20

16           A.     Mm-hmm.                                 10:36:21

17           Q.     But It's St. Joseph's. Do you see the       10:36:24  
18    language that got flagged for St. Joseph's?           10:36:26

19           A.     Yes.                                     10:36:30

20           Q.     Okay. What was it?                     10:36:31

21           A.     "Students seeking admission to Catholic     10:36:32

1 schools for reasons that violate Christian 10:36:34

2 principles will not be admitted." 10:36:38

3 Q. Okay. So -- okay. So this -- so this 10:36:42

4 gave -- and were these highlights included on the 10:36:44

5 versions sent to the school, if you know? 10:36:48

6 A. Yes. 10:36:50

7 Q. Okay. So this gave the schools a pretty 10:36:50

8 clear idea of what you guys were looking at and 10:36:53

9 what you were concerned about, right? 10:36:56

10 A. Yes. 10:36:59

11 Q. Okay. Let's see. That one has got the 10:36:59

12 same highlight. Who is this? Oh, that's 10:37:02

13 St. Margaret. Okay. And there's 10:37:17

14 Woodstream. Okay. And Woodstream was one of the 10:37:21

15 ones that ultimately was at issue. Okay. Let's 10:37:24

16 see. I think we can be done with that one for now. 10:37:32

17 Okay. So they -- okay. So they get 10:37:35

18 these letters that tells them hey, what's up with 10:37:36

19 this and then what -- what do the schools do at 10:37:40

20 that point? 10:37:43

21 A. Some of them provided written 10:37:43

1 statements. Some of them -- I think most of them 10:37:46  
2 provided written statements. I -- I know an 10:37:52  
3 opportunity was given or I guess -- I believe in 10:37:54  
4 Bethel's case they were -- they wanted to speak to 10:37:57  
5 the Board because I remember cameras being at a 10:38:00  
6 couple of our board meetings towards the end and a 10:38:04  
7 conference call being set up for them to call in as 10:38:07  
8 well, but things kind of got pushed off. 10:38:10  
9 I mean, it -- I don't -- there was never 10:38:13  
10 a time where we actually spoke to Bethel I don't 10:38:14  
11 think in one of the BOOST calls. 10:38:17  
12 Q. Did -- did the Board have the cameras 10:38:20  
13 there for Bethel? 10:38:22  
14 A. I don't believe the Board had the cameras 10:38:25  
15 there. The cameras didn't come in that were 10:38:27  
16 MSDE-related. The cameras came in from an outside 10:38:30  
17 entity for the board meetings. 10:38:35  
18 Q. Do you remember what entity was behind -- 10:38:39  
19 or responsible for the cameras? 10:38:41  
20 A. I don't remember what -- I -- I don't 10:38:42  
21 recall what -- who they were, but they -- whoever 10:38:43

1 it was would come in with video cameras. They 10:38:47  
2 wanted to set up to tape the board meetings. 10:38:51  
3 Q. Okay. Let's see. Okay. Where did that 10:38:54  
4 go. The jackhammer is going to drive me 10:39:04  
5 crazy. I'm going to mute myself again. Sorry, 10:39:09  
6 guys. 10:39:45  
7 (Whereupon, 2017.11.01 Kearns asked for 10:39:45  
8 30 minute meeting to deal with another 10:39:45  
9 discriminatory school was entered as Exhibit No. 71 10:39:45  
10 by counsel in Exhibit Share.) 10:39:45  
11 BY MR. SCHMITT: 10:39:45  
12 Q. Okay. I actually had my act together 10:39:45  
13 compared to earlier, but this will be Exhibit 10:39:50  
14 71. Do you see I've got a mark on it on the 10:39:56  
15 bottom? 10:40:00  
16 A. Yes. 10:40:00  
17 Q. And it's got Bethel Defendants 3714 as a 10:40:00  
18 Bates stamp? 10:40:06  
19 A. Yes. 10:40:07  
20 Q. Okay. And I think -- are you 10:40:07  
21 feliciaholloway.wise@maryland.gov? 10:40:12



1 A. Yes. 10:40:22

2 Q. Okay. And this is between you and 10:40:22  
3 Monica, right? 10:40:24

4 A. Yes. 10:40:24

5 Q. So this is an email exchange. What's 10:40:24  
6 going on here? So it's from November -- or very 10:40:28  
7 early November. November 1st of 2017. 10:40:30

8 A. There was -- so I would be responsible 10:40:33  
9 for scheduling the Board meetings, but because our 10:40:35  
10 board members are from all walks of life and do all 10:40:40  
11 sorts of different things and have regular full- 10:40:43  
12 time jobs, I would have to send out something 10:40:46  
13 called a Doodle Poll to find out what the best 10:40:49  
14 times were to schedule board meetings for them. 10:40:50

15 So this was in reference to scheduling a 10:40:52  
16 board meeting about somebody's handbook with 10:40:56  
17 discriminatory language in it and the dates that -- 10:41:00  
18 basically to schedule the dates for the Board to 10:41:02  
19 sit on the this meeting to discuss this issue. 10:41:05

20 Q. Got it. And so this would have been for 10:41:09  
21 November -- this would not have been Trinity 10:41:15

1 Lutheran, right? 10:41:21

2 A. I don't believe so. In fact, this might 10:41:21  
3 have been to do with some of the handbooks that led 10:41:23  
4 to the category topics that came in and -- later on 10:41:26  
5 into play. 10:41:29

6 Q. Okay. Okay. Thank you. Let's see if I 10:41:30  
7 can find -- what was that? That was November 1st, 10:41:34  
8 right? 10:41:38

9 A. Mm-hmm. 10:41:39

10 Q. Okay. So let me -- I'm going to show you 10:41:40  
11 another one here. Maybe. Some day. 10:41:49

12 (Whereupon, 2017.11.06 Kearns email about 10:41:51  
13 scheduled meeting attached agenda withheld was 10:41:51  
14 entered as Exhibit No. 70 by counsel in Exhibit 10:41:51  
15 Share.) 10:41:51

16 BY MR. SCHMITT: 10:41:51

17 Q. So this then would have not been to you, 10:41:51  
18 but you're copied on it. I listed this as Exhibit 10:41:54  
19 70, 7-0, and it was Bethel Defendants 3719 at the 10:41:58  
20 bottom; is that right? 10:42:08

21 A. Yes. 10:42:09

1 Q. Okay. So here is -- it seems Monica to 10:42:09  
2 Kenyatta DeCosta. I probably butchered that. Is 10:42:15  
3 that how you say -- say her name? 10:42:21

4 A. Yeah. Well, we just call her Kenya, but 10:42:21  
5 yeah. 10:42:23

6 Q. Okay. Who is Kenya and what was her job? 10:42:24

7 A. Kenya was the -- I don't remember her 10:42:28  
8 exact title. I guess she was like the executive 10:42:31  
9 assistant to Monica at the time and so she was the 10:42:34  
10 person who handled most of the BOOST administrative 10:42:38  
11 stuff prior to me being hired into the organization 10:42:41  
12 in 2017. 10:42:45

13 Q. Okay. Gotcha. And then she's setting up 10:42:46  
14 a BOOST Board meeting that appears to be November 10:42:54  
15 8th. Is that the meeting that you would have sent 10:42:59  
16 the -- the Doodle Poll out to? 10:43:01

17 A. Yes. Mm-hmm. 10:43:05

18 Q. And then it says in there -- she's got 10:43:06  
19 something addressed to you in there and she's 10:43:11  
20 asking you -- or no, mentioning that Kenya needs to 10:43:13  
21 forward you the meeting conference call information 10:43:17

1 so you can forward it to the interested parties; is 10:43:22

2 that right? 10:43:28

3 A. Yes. Mm-hmm. 10:43:28

4 Q. Who would -- who would the interested 10:43:29

5 parties have been? 10:43:32

6 A. The BOOST Board meetings were usually 10:43:34

7 attended by other advocates of the BOOST program so 10:43:42

8 I can't remember Garrett's last name or Rabbi -- 10:43:47

9 Rabbi Sadwin or Garrett with the CAPE Program were 10:43:49

10 usually interested in attending the BOOST programs 10:43:55

11 because they were advocates for BOOST and anybody 10:43:58

12 else that might have been asking about the next 10:44:02

13 board meeting. 10:44:07

14 Because usually they were posted on our 10:44:08

15 website and so -- so it might be anybody who would 10:44:12

16 reach out to us and ask when the next board meeting 10:44:15

17 was that wanted to attend. We would forward that 10:44:20

18 information to them as well. 10:44:22

19 Q. That makes sense. Let me ask you about 10:44:22

20 that in a second. Let's see. This is not from 10:44:26

21 that meeting. 10:44:27

1 MR. SCHMITT: What was that -- Allison, 10:44:29  
2 was that 70 that we just looked at? 10:44:31  
3 COURT REPORTER: I think it was 71, but 10:44:45  
4 let me -- 10:44:45  
5 MR. SCHMITT. Okay. 10:44:45  
6 COURT REPORTER: Let me go back and look 10:44:45  
7 though. 10:44:45  
8 MR. SCHMITT: I think I did them in 10:44:45  
9 reverse order. 10:44:45  
10 MS. SHERIDAN: It was 70. 10:44:45  
11 MR. SCHMITT: So this next one will be 72 10:44:45  
12 though because of -- you're right. Seventy-one was 10:44:49  
13 the last number we got to. Okay. So I'm going to 10:44:50  
14 introduce another one. Sorry. 10:44:57  
15 (Whereupon, 2017.03.06 MSDE sent 11-8 10:45:17  
16 agenda to dioceses and Jewish schools on 10:45:17  
17 discriminatory school consideration was entered as 10:45:17  
18 Exhibit No. 72 by counsel in Exhibit Share.) 10:45:17  
19 BY MR. SCHMITT: 10:45:17  
20 Q. Okay. Let me share. So this should be 10:45:17  
21 72. Yup. Okay. Got it. All right. Do you see 10:45:22

1 this? 10:45:28

2 A. Yes. Mm-hmm. 10:45:29

3 Q. This is Exhibit 72 and it's got a Bates 10:45:31

4 stamp number Bethel Defendants 3726; is that right? 10:45:36

5 A. Yes, 0-1. 10:45:43

6 Q. Okay. And then I think this is from you 10:45:45

7 to some individuals up here. Could you walk me 10:45:48

8 through who these folks are in the to field? 10:45:54

9 A. Garrett O'Day is with the -- I want to 10:45:58

10 say they're called Maryland CAPE. I can't remember 10:46:05

11 the exact name, but Garrett O'Day and Rabbi Ariel 10:46:06

12 Sadwin were both affiliated with religious 10:46:11

13 institutions on their respective side that 10:46:14

14 participate in BOOST. 10:46:17

15 Donna Bridickas and Jim Sellinger. They 10:46:25

16 -- I don't remember if they -- I think one of them 10:46:32

17 was like part of the Archdiocese or head of the 10:46:34

18 Baltimore Archdiocese program might have been Donna 10:46:37

19 Bridickas and Jim Sellinger might have been head 10:46:41

20 of -- the head of the Archdiocese program for 10:46:47

21 Baltimore. 10:46:49

1 Kyle was somebody that worked with the 10:46:50  
2 State in regard to legislation and so does Erika 10:46:51  
3 and Dana. So these were people that were 10:46:58  
4 affiliated with the program with regard to the 10:47:03  
5 legislation side and the larger umbrella 10:47:08  
6 organizations that some of the schools that 10:47:11  
7 participated in the program were members of. 10:47:13

8 Q. Okay. And then I see -- I see on there 10:47:16  
9 there's an email address probably the fourth line 10:47:18  
10 down president@mdpta.org. Do you see that? 10:47:22

11 A. Yes. 10:47:28

12 Q. Was that someone from the Maryland PTA? 10:47:29

13 A. Yes. I don't know who specifically it 10:47:31  
14 was, but that -- whoever -- I think they started 10:47:33  
15 being included in the meetings after the handbook 10:47:37  
16 issues started coming up and flagged the first 10:47:41  
17 time. 10:47:43

18 Q. Got it. And I know you -- you obviously 10:47:43  
19 are pretty deep into the education world. Do you 10:47:46  
20 know anything about the PTA or the Maryland PTA? 10:47:52

21 A. To be honest, I don't know anything about 10:47:54

1 the Maryland PTA program. 10:47:58

2 Q. Okay. I really honestly I didn't know. 10:47:59

3 Until I got into this, I didn't really know 10:48:01

4 anything about who they are and what they did 10:48:04

5 either. Okay. So these guys are all on there and 10:48:06

6 I -- you sent them an attachment which would have 10:48:10

7 been the Board meeting agenda; is that right? 10:48:14

8 A. Yes. 10:48:20

9 Q. Okay. Let's see. What else. Okay. So 10:48:20

10 that happened in November. And let me just double- 10:48:30

11 check. There's also the chance that a screwed it 10:48:40

12 up. Okay. So I'm going to do one more here. This 10:48:44

13 should be I think 73. Yup. Perfect. Okay. Let 10:48:55

14 me share. 10:49:13

15 (Whereupon, 2017.12.11 Kearns email to 10:49:19

16 BOOST Members attaching Adventist handbook examples 10:49:19

17 that MSDE identified was entered as Exhibit No.73 10:49:19

18 by counsel in Exhibit Share.) 10:49:19

19 BY MR. SCHMITT: 10:49:19

20 Q. Okay. So then a month later do you see 10:49:19

21 that -- well, let's -- let's just do the 10:49:22



1 identification first. I've marked this as Exhibit 10:49:25  
2 73 and it's got a Bates stamp on the bottom, 10:49:28  
3 Bethel-Gallagher 0335, right? 10:49:32  
4 A. Yes. 10:49:35  
5 Q. Okay. So I've got an email here that 10:49:35  
6 appears to be from Monica to a bunch of people. Do 10:49:43  
7 you see that you're copied on there? 10:49:47  
8 A. Yes. 10:49:49  
9 Q. Okay. And when -- when was this sent? 10:49:49  
10 A. December 11th of 2017. 10:49:53  
11 Q. Cool. Okay. So -- and it's got an 10:49:58  
12 attachment on it. What's the attachment called? 10:50:03  
13 A. BOOST School Handbook Examples from OAG 10:50:07  
14 Review. 10:50:12  
15 Q. Okay. And do you -- I mean, this -- this 10:50:15  
16 is probably a long shot. Do you remember what that 10:50:18  
17 document was or would have been? 10:50:20  
18 A. This would have been the samples of 10:50:24  
19 language from handbooks that Jamie and I when we 10:50:31  
20 first initially started reviewing that we sent to 10:50:34  
21 Monica who sent it to OAG review must have sent it 10:50:37

1 up to Liz and Alan so that they could show what the 10:50:43  
2 language was that was becoming problematic that we 10:50:48  
3 were seeing from some of the handbooks that the 10:50:52  
4 schools had. 10:50:55

5 Q. Okay. And then down below -- and you see 10:50:56  
6 there she split the -- so this is really addressed 10:51:02  
7 to BOOST Board members and you're copied -- 10:51:05

8 A. Mm-hmm. 10:51:08

9 Q. -- along with Liz and Alan and Jamie and 10:51:08  
10 like who is Kristy Michel? 10:51:13

11 A. Kristy Michel was Monica's supervisor at 10:51:15  
12 BOOST -- or not BOOST. At MSDE. I don't remember 10:51:20  
13 what her title was, but she's no longer there. And 10:51:25  
14 then William Reinhard. I don't remember what he 10:51:31  
15 does either. I want to say he does something with 10:51:39  
16 like PR type-related things, but I'm not positive. 10:51:42

17 Q. Okay. And then -- so they -- you guys 10:51:47  
18 are all copied because you're MSDE staff presumably 10:51:49  
19 or government staff I should say. So then you've 10:51:53  
20 got bullet point two and it says student handbooks 10:51:57  
21 and what's -- what's Monica telling everybody 10:52:00

1 there? 10:52:01

2 A. She's letting them know that we've been 10:52:02

3 getting all the handbooks or we've been reviewing 10:52:04

4 the handbooks that are already readily available 10:52:06

5 online from the schools and that -- that basically 10:52:11

6 attached was the language that has been a trigger 10:52:14

7 so far or that appears to be problematic. Because 10:52:17

8 they were supposed to be paid that month for their 10:52:24

9 scholarships. 10:52:27

10 Q. Yeah. Okay. And I -- I think -- yeah, I 10:52:27

11 think it was the concern that you wanted to -- to 10:52:31

12 clear it before the checks went out because you 10:52:34

13 didn't want to have to worry about clawing it back 10:52:38

14 later, right? 10:52:42

15 A. Right. 10:52:43

16 Q. And then it said -- there's some 10:52:45

17 additional examples that they still need to confer 10:52:47

18 with legal counsel on, right? 10:52:52

19 A. Yes. 10:52:54

20 Q. And when you say we reviewed it, she 10:52:54

21 specifically mentions you and Jamie? 10:52:57

1 A. Correct. 10:53:00

2 Q. Okay. Cool. I think -- let me see if 10:53:01

3 I've got this right. Okay. So let's do this one 10:53:06

4 now. This should be Exhibit 74. Great. 10:53:21

5 (Whereupon, Schools that raised a red 10:53:53

6 flag document was entered as Exhibit No. 74 by 10:53:53

7 counsel in Exhibit Share.) 10:53:53

8 BY MR. SCHMITT: 10:53:53

9 Q. All right. Let me share. Screen 10:53:53

10 two. Okay. Do you see this? 10:53:56

11 A. Yes, I do. 10:53:58

12 Q. Okay. So I'm going to zoom in a little 10:53:58

13 bit because it's a little small. I've marked this 10:54:01

14 Exhibit 74 and it's got a Bates stamp on it called 10:54:05

15 Bethel Defendants 3684; is that right? 10:54:09

16 A. Yes. 10:54:13

17 Q. Okay. And then it says at the top 10:54:13

18 Schools That Raised a Red Flag in Regards to 10:54:13

19 Discriminatory Language; is that correct? 10:54:18

20 A. Yes. 10:54:19

21 Q. And then what's the school that -- with 10:54:20

1 the first example with handbook language? 10:54:21

2 A. Highland View Academy. 10:54:25

3 Q. Okay. And then if I scroll down, they 10:54:27

4 list some BOOST awards from High -- Highland View 10:54:32

5 and I'm -- I'm going to go ahead and mark this as 10:54:36

6 confidential because I think it's got student names 10:54:42

7 on it. 10:54:44

8 A. It does, yeah. 10:54:44

9 Q. Okay. So I'm marking this exhibit 10:54:45

10 confidential. And then if you go down to the 10:54:49

11 second page, so I'm looking at Bethel Defendants 10:54:53

12 3684.002. 10:54:58

13 A. Mm-hmm. 10:54:58

14 Q. What's on here? 10:55:02

15 A. These are 11 other BOOST-eligible schools 10:55:04

16 that had questionable language and how many 10:55:09

17 students were at the school so this was just a list 10:55:14

18 of the other schools that might have had 10:55:18

19 questionable language at the time and how many 10:55:20

20 students were there and how much scholarship money 10:55:23

21 the school was slotted to get. 10:55:26

1 Q. Okay. And that includes Arnold 10:55:29  
2 Christian, Atholton Adventist, Cathedral Christian, 10:55:33  
3 Elvaton Christian, Frederick Adventist, Lighthouse 10:55:40  
4 Christian, Mt. Aetna Adventist, Spencerville 10:55:43  
5 Adventist, St. Joseph's, St. Louis, and Takoma, 10:55:47  
6 correct? 10:55:48  
7 A. Correct. 10:55:48  
8 Q. Okay. And we reviewed earlier letters 10:55:49  
9 from Monica to -- to those schools; is that right? 10:55:53  
10 A. Yes. 10:55:56  
11 Q. Okay. And then you've got an example -- 10:55:57  
12 (Noise interruption.) 10:56:02  
13 Q. Ooh. I hope they're okay. You've got 10:56:02  
14 an example of it says, "Opted out of BOOST, 10:56:04  
15 Participating in Textbooks" on the bottom of that 10:56:10  
16 page. 10:56:13  
17 A. Right. 10:56:13  
18 Q. And what school was that? 10:56:14  
19 A. It says Rosedale Baptist School. So they 10:56:17  
20 weren't a BOOST school. They were a textbook 10:56:20  
21 program school. They decided not to participate in 10:56:23

1 Boost because they didn't want to sign the 10:56:25  
2 assurances. 10:56:29

3 Q. Got it. Got it. Got it. And then it's 10:56:29  
4 got a little explanation on the third page, which 10:56:31  
5 is Bethel's Defendants 3684.003. Could you go 10:56:34  
6 ahead and read that? 10:56:40

7 A. "Rosedale Baptist opted not to 10:56:40  
8 participate in the BOOST program for the 2017-18 10:56:42  
9 school year and has consistently been on the fence 10:56:42  
10 to participate in textbooks as well. They have 10:56:42  
11 applied for textbook this year and could 10:56:42  
12 potentially receive \$35,100. 10:56:42

13 Jamie Klarman and I found looking into 10:56:42  
14 this school when we were attempting to figure out 10:56:42  
15 reasons why an institution would opt out of BOOST 10:56:42  
16 and still participate in textbook program when they 10:56:42  
17 were on the fence in regards to the assurances." 10:56:42

18 Q. I'm shaking my head because there's some 10:57:10  
19 truck slamming concrete around now. So okay. So 10:57:14  
20 would you have written this? 10:57:19

21 A. Yes. I mean, I would have written it if 10:57:22

1 this was something that we -- yes, this is 10:57:29  
2 something I would have written. 10:57:35  
3 Q. Okay. So is this the attachment to that 10:57:36  
4 email that Monica sent to the Board? 10:57:40  
5 A. Yes -- well, I don't know. I would 10:57:45  
6 assume yes. 10:57:48  
7 Q. Okay. And -- okay. That's good. 10:57:50  
8 MS. SHERIDAN: Objection. Can -- can we 10:57:51  
9 go off the record for a minute, Paul? 10:57:52  
10 MR. SCHMITT: Yeah. 10:57:56  
11 MS. SHERIDAN: And with Felicia out of 10:57:58  
12 the room. 10:58:00  
13 VIDEOGRAPHER: Oh, one second. I'll get 10:58:01  
14 us off the record. Off the video record at 10:58:02  
15 10:57 a.m. 10:58:03  
16 (Whereupon, a brief recess was taken.) 11:11:11  
17 VIDEOGRAPHER: This is the beginning of 11:15:36  
18 media unit number two. Back on the video record at 11:15:53  
19 11:15 a.m. 11:15:55  
20 BY MR. SCHMITT: 11:15:58  
21 Q. Everybody, welcome back. So I think, 11:15:58



1 Felicia, we were going through a document that was 11:16:10  
2 attached to an email. Let me show you one more 11:16:14  
3 here. This is on what I've just marked Exhibit 75. 11:16:27  
4 (Whereupon, BG 1180 was entered as 11:16:33  
5 Exhibit No. 75 by counsel in Exhibit Share.) 11:16:33  
6 BY MR. SCHMITT: 11:16:33  
7 Q. Do you see 75 there and Bethel-Gallagher 11:16:33  
8 1180? 11:16:38  
9 A. Yes, I do. 11:16:38  
10 Q. All right. So I don't think you received 11:16:39  
11 this, but it -- I want to just walk through it real 11:16:43  
12 quick. It appears to be an email from Monica to 11:16:43  
13 Matt Gallagher on November 14, 2017; is that right? 11:16:45  
14 A. Yes. 11:16:51  
15 Q. Okay. Then, Monica is giving an update 11:16:51  
16 on the BOOST program. Almost 600 scholarships for 11:16:55  
17 about \$1.6 million and there's all kinds of factors 11:17:02  
18 and then she goes down -- and basically I'm -- I'm 11:17:08  
19 showing you this just to confirm something we 11:17:12  
20 talked about earlier. 11:17:16  
21 So then there's a second bullet point 11:17:18

1 that she includes and she says, "we've decided that 11:17:20  
2 we need to review the student handbooks or related 11:17:23  
3 admission documents for all 180 of the 11:17:27  
4 BOOST-eligible schools to look for discriminatory 11:17:30  
5 language." 11:17:36

6 And then it says that you and Jamie have 11:17:36  
7 received calls from a few schools about the 11:17:40  
8 assurances and you could tell from the 11:17:43  
9 conversations that the schools were uneasy about 11:17:47  
10 the requirement to not discriminate on sexual 11:17:49  
11 orientation. Do you see that? 11:17:53

12 A. Yes. 11:17:55

13 Q. Okay. Do you remember having those phone 11:17:55  
14 calls with any of the schools? 11:18:00

15 A. I don't unfortunately. 11:18:02

16 Q. And you don't remember which schools 11:18:03  
17 might have called? 11:18:10

18 A. I -- no, I don't remember which schools 11:18:10  
19 called. 11:18:14

20 Q. Okay. And then it says that you and 11:18:14  
21 Jamie looked at handbooks for two of those schools, 11:18:18

1 Highland View and Frederick, and "they contained 11:18:22  
2 discriminatory language." Is that right? 11:18:29  
3 A. Yeah. I mean, Highland View and 11:18:31  
4 Frederick both were on that list of schools with 11:18:33  
5 discriminatory language, yes. 11:18:36  
6 Q. Yeah. And we -- we just looked at that 11:18:36  
7 example of I think it was Highland View in the 11:18:39  
8 previous document that we went through. 11:18:42  
9 A. Right. 11:18:44  
10 Q. Okay. And then she says that you guys 11:18:44  
11 reported it to her and "I dec -- I meaning Monica 11:18:50  
12 -- "I decided that we need to review all the 11:18:57  
13 handbooks; Liz agrees." Is that right? 11:19:01  
14 A. Right. 11:19:07  
15 Q. Okay. So this would have been November 11:19:07  
16 14th so that probably gives us a little bit of a 11:19:09  
17 timeline of when the handbook reviews started, 11:19:11  
18 right? 11:19:14  
19 A. Yes. 11:19:15  
20 Q. Okay. That's all good. That's what I 11:19:15  
21 need to do. Okay. Let's see. Sorry for the 11:19:26

1 delay. 11:20:12

2 A. No, that's fine. 11:20:12

3 Q. Okay. So you guys go through your 11:20:13

4 review. Letters get sent out identifying the 11:20:18

5 language. Schools receive them. Schools were 11:20:23

6 given an opportunity to correct the 11:20:27

7 handbooks. Some are still up in the air though, 11:20:29

8 right? 11:20:34

9 A. Right. 11:20:34

10 Q. So let me see. 2018. So -- okay. Let 11:20:35

11 me make sure I don't screw this up. Okay. That's 11:20:56

12 what I need to do. Sorry. I'm trying to keep this 11:21:07

13 in order so it's not so disjointed. 11:21:11

14 So now we're probably -- and we went 11:21:21

15 through that memo that we looked at earlier, the 11:21:25

16 paper we were talking about from early January. So 11:21:31

17 that was early January. I think January 9th 11:21:35

18 maybe. Let's introduce another one here. 11:21:39

19 (Whereupon, 2018.01.12 Monica 11:21:43

20 instructions to Felicia and Jamie on breaking up 11:21:43

21 schools into categories and flagging violations was 11:21:43

1 entered as Exhibit No. 76 by counsel in Exhibit 11:21:43  
2 Share.) 11:21:43  
3 BY MR. SCHMITT: 11:21:43  
4 Q. So then around January -- early January 11:21:43  
5 -- let me show you this one. I've marked this 11:21:49  
6 Exhibit 76. It's got a Bates stamp number Bethel 11:21:55  
7 Defendants 3658. Do you see that? 11:22:01  
8 A. Yes. 11:22:05  
9 Q. Okay. So this is an email -- appears to 11:22:06  
10 be email from you to Monica on the 12th of January 11:22:07  
11 and the subject of the email is Enforcing 11:22:13  
12 Nondiscrimination and Reimbursement Provisions in 11:22:18  
13 BOOST Law; is that right? 11:22:23  
14 A. Yes. 11:22:25  
15 Q. Okay. Let's back down the email chain a 11:22:25  
16 little bit. And do you see this email here from 11:22:31  
17 January 9th? 11:22:37  
18 A. Yes, I do. 11:22:38  
19 Q. Okay. Who is Michelle Phillips? 11:22:39  
20 A. That I don't know. 11:22:45  
21 Q. Okay. It's an email from Michelle to Liz 11:22:46

1 Kameen, right? 11:22:52

2 A. Mm-hmm. 11:22:53

3 Q. And we don't know what that is because it 11:22:53

4 doesn't have any text. And then if we scroll up a 11:22:58

5 little bit, we see that Liz sends an email to 11:23:02

6 Monica. Alan Dunklow is copied, but it's Monica 11:23:11

7 and Matt received this email on January 9th, right? 11:23:12

8 A. Right. 11:23:16

9 Q. And what does -- what does Liz say to 11:23:16

10 Monica and Matt? 11:23:17

11 A. "Here's the final version of this advice 11:23:18

12 memo. If you have any further comments... let me 11:23:23

13 know." 11:23:25

14 Q. Okay. And then, if you go up here, on 11:23:27

15 the 11th, so this is probably right after -- right 11:23:31

16 after that. So this is Thursday and Monica 11:23:35

17 forwards this to you and what does she say to you 11:23:38

18 and Jamie? 11:23:42

19 A. It says, "See the attached memo from Liz 11:23:43

20 and Alan on the handbooks. Can you please add a 11:23:46

21 column to your spreadsheet called Complies With 11:23:49

1 BOOST Law and put either yes or no in the column 11:23:52  
2 according to your understanding of their memo. I 11:23:55  
3 will spot check it after your on work on it. 11:23:56  
4 Please let me know if I met -- if we should meet to 11:23:59  
5 discuss some of the cases you've come across." 11:24:01  
6 Q. And then what -- you responded to Monica 11:24:12  
7 the next day I think. 11:24:15  
8 A. Yes. 11:24:16  
9 Q. Okay. What -- what did you tell her? 11:24:16  
10 A. I told her I've updated the file and 11:24:18  
11 uploaded it to Google drive. I've attached the 11:24:20  
12 original file to this email. It includes the 11:24:23  
13 column that she wanted for the cat -- and a column 11:24:25  
14 for the categories it falls into based on the 11:24:26  
15 categories that Liz and Alan defined. 11:24:29  
16 Q. Okay. Thank you. Let me see. So that 11:24:45  
17 was the 12th. Give me just a second. Sorry. I am 11:24:47  
18 perplexed by something. 11:26:31  
19 (Whereupon, a brief pause was taken for 11:26:31  
20 document examination.) 11:26:31  
21 Q. I don't have the one ready that I was 11:26:31

1 going to ask about so I'm going to move on to the 11:26:33  
2 next one. I don't know how that happened. I'm 11:26:37  
3 sorry. Okay. So let's move on to a different one 11:26:40  
4 here. Okay. I'm going to introduce one more. 11:26:46  
5 A. Okay. 11:26:55  
6 Q. So this appears to be 77 and I'll pull it 11:26:56  
7 up. 11:27:10  
8 (Whereupon, 2018.02.21 Kearns asks Kenya 11:27:12  
9 to send out legal memo and other attachments to 11:27:12  
10 non-board members was entered as Exhibit No. 77 by 11:27:12  
11 counsel in Exhibit Share.) 11:27:12  
12 BY MR. SCHMITT: 11:27:12  
13 Q. Okay. So let's see if this one works 11:27:42  
14 here. Do you see Exhibit 77 marked here? It's 11:27:48  
15 Bethel Defendants 3769. 11:27:55  
16 A. Yes, I do. 11:27:59  
17 Q. Okay. So I'm going to go down to the 11:28:02  
18 bottom. On February 20th this would have been in 11:28:05  
19 2018 -- 11:28:12  
20 A. Right. 11:28:14  
21 Q. -- Monica sent an email to the BOOST 11:28:15



1 Board and it looks like you're copied on 11:28:18  
2 there. And what -- what is she notifying the BOOST 11:28:22  
3 Board about? 11:28:28  
4 A. This is just a meeting about -- it was a 11:28:30  
5 regular board meeting because the BOOST Board had 11:28:37  
6 monthly meetings, but it's -- she's just letting 11:28:40  
7 them know that the attached are the meeting 11:28:43  
8 agendas, the time of the meeting, and which room 11:28:46  
9 it's going to be in. 11:28:48  
10 And then the memo from Liz in regards to 11:28:49  
11 whether a school complies or not and what to do -- 11:28:53  
12 what we are going to consider for reinforcing -- or 11:28:56  
13 enforcing the payments that went out the prior year 11:29:00  
14 when the discriminatory language might have been 11:29:04  
15 still been in the handbook. 11:29:06  
16 Q. Okay. And then she -- Monica says 11:29:08  
17 there's another -- so what was that? The next day 11:29:16  
18 would have been February 21st. Monica follows up 11:29:18  
19 with the BOOST Board and says, "Dear BOOST members, 11:29:21  
20 in addition to the agenda and legal advice memo 11:29:24  
21 sent yesterday (attached again), attached is a 11:29:28

1 handout on awards status called "BOOST Board Update 11:29:32  
2 Feb 2018" for today's meeting." Is that right? 11:29:36  
3 A. Yes. 11:29:43  
4 Q. Okay. And then do you see at the top 11:29:43  
5 here it seems that Monica is e-mailing Kenya and 11:29:44  
6 that you're copied too. And what is Monica 11:29:48  
7 requesting that Kenya do? 11:29:52  
8 A. She's just requesting that Kenya send 11:29:54  
9 this information to any other nonboard members who 11:29:57  
10 registered to call in for the meeting today as well 11:30:00  
11 so that they had the handouts and the -- the 11:30:04  
12 information that was included in the emails that 11:30:05  
13 went out to everybody else. 11:30:08  
14 Q. Okay. And those handouts included 11:30:09  
15 that -- that paper from Liz, the January 9th, memo? 11:30:11  
16 A. I believe so, yes. 11:30:15  
17 Q. Okay. And for the non-board members who 11:30:16  
18 register for the BOOST poll, would that include the 11:30:19  
19 people we talked about earlier, the Maryland CAPE 11:30:25  
20 or the Archdiocese, those guys, the Maryland PTA? 11:30:29  
21 A. Mm-hmm. 11:30:33

1 Q. Okay. Thank you. So that was 11:30:33  
2 February. Of course. I find it after when I'm not 11:30:52  
3 even looking for it. Sorry. Okay. Sorry about 11:31:12  
4 that. Okay. So let's move in then -- oh, wait. 11:31:17  
5 No. Sorry. I know this has been marked as an 11:31:22  
6 exhibit before and I don't want to -- I don't want 11:31:29  
7 to double up on it so give me just a second. I'm 11:31:32  
8 going to try to find what we called it. 11:31:38  
9 A. Okay. 11:31:41  
10 Q. Sorry for the delay. 11:31:41  
11 (Whereupon, 2018.02.21 Bethel Defendants 11:32:27  
12 3477 - Summary of decisions outline of three 11:32:27  
13 categories, gray area was entered as Exhibit No. 35 11:32:27  
14 by counsel in Exhibit Share.) 11:32:27  
15 MR. SCHMITT: Great. So I haven't 11:32:27  
16 introduced this in this file yet, but it's been 11:32:31  
17 previously introduced as Exhibit 35. And so 11:32:35  
18 Allison, I'll make sure I send it again here in 11:32:38  
19 just a second so you've got it in Exhibit Share. 11:32:43  
20 BY MR. SCHMITT: 11:32:49  
21 Q. Okay. So I've marked this Exhibit 35. 11:32:49

1 It's Bethel Defendants 3477. Do you see that? 11:32:53

2 A. Yes, I do. 11:32:56

3 Q. So that last email we were just looking 11:32:57

4 at was talking about the February 2018 board 11:33:03

5 meeting, right? 11:33:07

6 A. Yes. 11:33:07

7 Q. Okay. So then what is this document? 11:33:08

8 A. So this is a Summary of Decisions that 11:33:09

9 would have been compiled after the board meeting, 11:33:13

10 after the meeting minutes and things were done just 11:33:18

11 to give an update on what the finalized decisions 11:33:20

12 were after the meeting. 11:33:25

13 Q. Okay. And it discussed the memo that got 11:33:26

14 sent to all the Board, right? 11:33:29

15 A. Yes. 11:33:31

16 Q. And the diocese and all of those guys? 11:33:31

17 A. Right. 11:33:37

18 Q. And do you see how it talks about the 11:33:38

19 three categories? 11:33:43

20 A. Yes. 11:33:45

21 Q. Okay. And what is the -- how does the -- 11:33:45

1 wait. Did you write these summaries? 11:33:53

2 A. No. 11:33:57

3 Q. Do you know who did? Was it Monica? 11:33:57

4 A. I don't. I -- I don't know if it was 11:34:03

5 Monica or Kenya. 11:34:05

6 Q. Okay. Well, whoever wrote it, how did 11:34:07

7 they describe the third category? 11:34:09

8 A. The third category is in the gray area 11:34:11

9 because the handbooks do not mention admissions 11:34:14

10 requirements, but the school may require adherence 11:34:16

11 to religious principles or they may have a 11:34:20

12 statement of on homosexuality. 11:34:21

13 Q. Got it. So that's the category three 11:34:26

14 schools. 11:34:29

15 A. Right. 11:34:29

16 Q. Okay. So let's move on to the next one. 11:35:11

17 (Whereupon, 2018.03.05 Kearns and 11:35:12

18 Holloway email chain with category 3 chart saying 11:35:12

19 Bethel complies was entered as Exhibit No. 78 by 11:35:12

20 counsel in Exhibit Share.) 11:35:12

21 BY MR. SCHMITT: 11:35:12

1 Q. So then in -- this should be Exhibit 78. 11:35:12

2 Okay. And I will share. Okay. Okay. So I've 11:35:20

3 marked this Exhibit 78 and it has got a Bates stamp 11:35:53

4 of Bethel Defendants 3592; is that right? 11:35:57

5 A. Yes. 11:36:01

6 Q. Okay. So there's an email chain here and 11:36:01

7 it starts down on February 26th so this would have 11:36:09

8 been right after the BOOST Board meeting that we 11:36:13

9 just looked at. 11:36:17

10 A. Right. 11:36:19

11 Q. And what's going on down here? 11:36:19

12 A. This just says basically that attached 11:36:21

13 are the nine letters for schools that were deemed 11:36:23

14 category three. It provides an explanation for why 11:36:26

15 three of the schools didn't have letters anymore 11:36:31

16 that were reviewed -- that were considered 11:36:35

17 problematic initially because they were looked at 11:36:38

18 again based on the guidance that was provided and 11:36:43

19 they were not found to have discriminatory language 11:36:47

20 in there. 11:36:51

21 And then it appears there's another 11:36:52

1 letter for a school that was added that we spoke 11:36:53  
2 about the prior week. 11:36:58

3 Q. So this is kind of Whack-A-Mole where 11:36:58  
4 every once in a while another issue might pop up 11:37:02  
5 and so you guys would address it at that time? 11:37:05

6 A. Right. 11:37:11

7 Q. Okay. And then there's maybe some 11:37:11  
8 confusion about -- I think Dr. Wensel was 11:37:15  
9 Elvaton. Maybe not. Maybe she was Grace. I can't 11:37:21  
10 remember. But -- and then -- okay. So there's 11:37:27  
11 some -- there's some back and forth here it looks 11:37:31  
12 like over the next week or so on which schools to 11:37:33  
13 include with letters and then I'll just cut back up 11:37:37  
14 to the top. 11:37:43

15 Monica sends you an email on Monday, 11:37:44  
16 March 5th in 2018 and -- and back at the top, 11:37:47  
17 3592.001. And then what -- what is Monica asking 11:37:51  
18 you to do here? 11:38:03

19 A. She's asking me to add Olney Adventist, 11:38:05  
20 Victory Day School, and Woodstream Christian to -- 11:38:12

21 Q. Okay. 11:38:12

1 A. -- this list of schools. 11:38:12

2 Q. Okay. And what is this list? 11:38:14

3 A. This is a list I believe we were using 11:38:17

4 for tracking schools that participated in the 11:38:23

5 program that -- that had admission documents that 11:38:26

6 complied with the BOOST law or they didn't or if 11:38:30

7 they were missing something, what was wrong with it 11:38:32

8 and what category it fell into. 11:38:36

9 Q. Okay. And was this the -- I think we 11:38:38

10 looked at an email earlier where she asked you to 11:38:42

11 create a document like this, right? Is this the 11:38:45

12 document you created? 11:38:46

13 A. Yes. 11:38:48

14 Q. Okay. And is -- is Bethel included on 11:38:48

15 the list of category three schools? 11:38:54

16 A. Yes, they are. 11:38:58

17 Q. Okay. Let's see what else. What 11:38:59

18 else. Where were we at? We were in February, 11:39:09

19 March? March. March, right? 11:39:15

20 MS. SHERIDAN: That last exhibit was 11:39:23

21 February. 11:39:25



1 MR. SCHMITT: February. Okay. 11:39:26

2 BY MR. SCHMITT: 11:39:29

3 Q. So then -- yeah, that's right. I'll show 11:39:29

4 you this one. This is kind of out of order in the 11:39:45

5 sense that -- well, let's -- yeah, let me -- I'll 11:39:49

6 just do it since I've got it pulled up 11:39:57

7 here. Sorry. 11:40:00

8 A. No problem. 11:40:01

9 Q. So let me add an exhibit. 11:40:03

10 (Whereupon, 2018.03.16 BOOST letter to 11:40:08

11 Arnold Christian Academy over Marriage Statement 11:40:08

12 was entered as Exhibit No. 79 by counsel in Exhibit 11:40:08

13 Share.) 11:40:08

14 BY MR. SCHMITT: 11:40:08

15 Q. It should be Exhibit 79 with a Bates 11:40:08

16 stamp on it of Bethel Defendants 286. Let me zoom 11:40:16

17 in. 11:40:29

18 A. Mm-hmm. 11:40:30

19 Q. Okay. So this is dated March 16, 2018 11:40:31

20 and do you see that, the identifying stuff on 11:40:36

21 there? 11:40:40

1 A. Yes. Mm-hmm. 11:40:40

2 Q. Okay. This appears to be a letter from 11:40:41

3 Matt Gallagher to Arnold Christian Academy; is that 11:40:55

4 right? 11:41:00

5 A. Can you scroll down a little bit more? I 11:41:01

6 can't see who it's from. 11:41:05

7 Q. Oh, yeah. Yeah. Sorry. Yeah, I moved 11:41:06

8 quickly. 11:41:09

9 A. Oh, yeah. It looks like it was signed by 11:41:09

10 Matt Gallagher in this situation. 11:41:12

11 Q. Okay. Were you involved in drafting any 11:41:14

12 of these letters or -- or involved in notifying the 11:41:17

13 schools that they had been deemed in violation of 11:41:21

14 the BOOST law? 11:41:25

15 A. I don't remember. I sent out a lot of 11:41:28

16 communications to schools. I don't know if once it 11:41:31

17 got to a certain level with this, if it was sent by 11:41:33

18 a higher-up so it didn't seem like it was just 11:41:36

19 coming from me, but I don't remember. 11:41:39

20 Q. Okay. And you see that for Arnold in 11:41:41

21 this letter, this letter from Matt Gallagher, it 11:41:46

1 identifies some of the handbook language they 11:41:52  
2 deemed in violation of the BOOST law; is that 11:41:56  
3 right? 11:42:00  
4 A. Right. 11:42:00  
5 Q. What is the language that is flagged for 11:42:01  
6 Arnold at that point? 11:42:08  
7 A. Right. It's the marriage statement that 11:42:11  
8 they have in their handbook. 11:42:13  
9 Q. Okay. And it appears that there's a 11:42:14  
10 highlight. What's the specific language that's 11:42:17  
11 highlighted? 11:42:19  
12 A. The statement says, "Sexual acts outside 11:42:19  
13 of the bounds of marriage, including fornication, 11:42:21  
14 adultery, homosexuality, polygamy, and any other 11:42:24  
15 sexually immoral practice are prohibited by God and 11:42:27  
16 are unprofitable." 11:42:28  
17 Q. And then do you see down below there's 11:42:31  
18 another -- a different -- another portion of the 11:42:37  
19 handbook that's flagged. What's that? 11:42:39  
20 A. It says, "Christ-centered approach." 11:42:41  
21 "Promotion, admission policy, discipline, classroom 11:42:46

1 decor, environment, staff philosophy, and all 11:42:51  
2 aspects of the educational experience are first and 11:42:54  
3 foremost Christ-honoring and Biblically-oriented. 11:42:55  
4 The bible is the source of absolute principles of 11:42:57  
5 life and conduct. Christ is upheld as the answer 11:43:00  
6 to all student problems." 11:43:02  
7 Q. Okay. Do you remember reviewing Arnold's 11:43:03  
8 -- having read that, do you remember reviewing 11:43:08  
9 Arnold's handbook? 11:43:12  
10 A. I vaguely remember reviewing it, but I 11:43:16  
11 don't remember -- I don't -- I don't remember it 11:43:19  
12 like that well. 11:43:22  
13 Q. Okay. Do you remember flagging it or 11:43:23  
14 setting it aside? 11:43:27  
15 A. Yes. 11:43:30  
16 Q. Okay. All right. Let's see. Where are 11:43:35  
17 we? March? So -- okay. I'm going to do another 11:43:45  
18 one here. Okay. So I think this is also in 11:44:13  
19 March. Let me pull it up and put a stamp on it and 11:44:23  
20 all that good stuff. 11:44:27  
21 A. Okay. 11:44:29

1 Q. This should be Exhibit 80. 11:44:29  
2 (Whereupon, 2018.03.19 Kearns email to 11:44:33  
3 BOOST Board on Broadfording and 11 category three 11:44:33  
4 schools was entered as Exhibit No. 80 by counsel in 11:44:33  
5 Exhibit Share.) 11:44:33  
6 BY MR. SCHMITT: 11:44:33  
7 Q. Okay. Hold on. I've got to share my 11:44:33  
8 screen. Okay. Okay. So do you see I've marked 11:44:46  
9 Exhibit 80 here? 11:44:51  
10 A. Yes, I do. 11:44:52  
11 Q. Do you see that's Bethel Defendants 11:44:53  
12 3565.001? 11:44:57  
13 A. Yes. 11:45:00  
14 Q. Okay. On Monday -- yeah, Monday March 19 11:45:00  
15 it looks like Monica wrote to the BOOST Board and 11:45:14  
16 said that you guys should gather additional 11:45:18  
17 information from the schools that were in category 11:45:22  
18 three. And then you gathered info -- it says that 11:45:29  
19 "Information has been gathered and attached are 11:45:30  
20 several documents," including a list of schools in 11:45:35  
21 category 3, the letters that were sent to those 11:45:39

1 schools asking how they comply with the law, and 11:45:43  
2 then the schools' responses. Is that right? 11:45:46  
3 A. Correct. 11:45:50  
4 Q. Okay. And then do you see that you're 11:45:50  
5 copied on this email on -- another follow-up email 11:45:54  
6 on the same chain on Monday, March 19 of 2018 -- 11:45:59  
7 A. Mm-hmm. 11:46:04  
8 Q. -- and then she says -- Monica says, "As 11:46:04  
9 a follow up to the email below: There are 11 11:46:06  
10 schools in "Category 3..." and then she said that 11:46:08  
11 Broadfording was added and that it hadn't been 11:46:12  
12 reviewed when the letters were sent requesting 11:46:17  
13 clarification. 11:46:24  
14 So that last letter that we just looked 11:46:24  
15 at that would have been from around this time for 11:46:27  
16 Arnold, that was -- it seems like that was probably 11:46:30  
17 actually a letter saying -- asking for more 11:46:34  
18 information, one of these letters that Monica is 11:46:36  
19 referring to here; is that right? 11:46:39  
20 A. Correct. 11:46:41  
21 Q. Okay. Got it. So -- okay. So 11:46:41

1 Broadfording gets added. You didn't have a copy of 11:46:45  
2 the handbook initially so that takes me back. I 11:46:49  
3 was going to ask this and I forgot about it. 11:46:51

4 What did you guys do if a school didn't 11:46:54  
5 have a handbook early on? Let's say they were a 11:46:57  
6 BOOST-eligible school and they didn't have a 11:47:01  
7 handbook ready, what would you guys do to figure 11:47:05  
8 out whether they complied with the law or not? 11:47:09

9 A. They were put to the side. If they 11:47:11  
10 didn't have a handbook that we could review, then 11:47:13  
11 they weren't going to be considered part of the 11:47:15  
12 program until we received a handbook or something 11:47:18  
13 that had their admission policy for it. 11:47:20

14 It wasn't fair to the other institutions 11:47:22  
15 to require them to have it and then let a school 11:47:24  
16 participate that didn't have a handbook. 11:47:26

17 Q. Right. Sort of like did you -- did you 11:47:27  
18 ever try to figure out where they stood on things 11:47:30  
19 by calling them or looking on their website or 11:47:33  
20 anything like that? 11:47:36

21 A. Well, we always went to the websites to 11:47:37

1 find the handbooks initially. If we couldn't find 11:47:40  
2 one via the website, then we would -- we sent out 11:47:43  
3 that big blanket email to the schools asking for 11:47:45  
4 them to provide us with handbooks by a certain 11:47:49  
5 date, but if a school still didn't comply at that 11:47:52  
6 point, then we would just put them on hold until we 11:47:55  
7 received or they wouldn't participate -- be able to 11:47:59  
8 participate in the program until we received 11:48:01  
9 something that made sure they were in the clear as 11:48:03  
10 far as or good to go with their handbooks. 11:48:05

11 Q. Okay. And then as far as -- so Monica is 11:48:07  
12 talking here about they sent the letter out and 11:48:15  
13 then follow up further replies that the schools 11:48:17  
14 gave. What was your role in handling or processing 11:48:25  
15 or evaluating the responses that the schools gave 11:48:28  
16 when you asked for more information? 11:48:30

17 A. I didn't do anything as far as reviewing 11:48:32  
18 them or making a decision. I only believe that I 11:48:34  
19 -- if we got them in, they were put together with 11:48:39  
20 the information so that the Board could review them 11:48:41  
21 further at the time next meeting. 11:48:44



1 Q. Okay. So at that point the Board was 11:48:46  
2 really the -- the -- and maybe Monica -- it sounds 11:48:51  
3 like the Board was really handling that at that 11:48:54  
4 point, once -- once the schools got elevated up to 11:48:57  
5 them? 11:49:00

6 A. Correct. The Board -- after everything 11:49:00  
7 was brought to the Board's attention, anything 11:49:03  
8 after that point was the Board making decisions as 11:49:05  
9 far as to whether an institution was participating 11:49:08  
10 or not. 11:49:10

11 Q. Okay. And that would have been those 20 11:49:11  
12 schools that got -- that you and Jamie flagged, 11:49:14  
13 right? 11:49:16

14 A. Yes. 11:49:17

15 Q. Okay. So -- okay. So let's not look at 11:49:17  
16 that one anymore. And attached -- I think I found 11:49:21  
17 the attachment to that email. Let's take a look at 11:49:25  
18 it. Where did that go? Okay. So this is from 11:49:31  
19 the same date. It's from the same date and I'm 11:49:37  
20 going to add the stamp. It will be Exhibit 11:49:46  
21 81. Maybe. 11:49:50

1 (Whereupon, 2018.03.19 Kearns list of 11:49:55  
2 eleven category three schools was entered as 11:49:55  
3 Exhibit No. 81 by counsel in Exhibit Share.) 11:49:55  
4 BY MR. SCHMITT: 11:49:55  
5 Q. Let me share screen two. Got it. Okay. 11:49:55  
6 Do you see Exhibit 81? 11:50:03  
7 A. Yes, I do. 11:50:05  
8 Q. Bethel Defendants 3566? 11:50:06  
9 A. Yes. 11:50:11  
10 Q. Okay. Does this look like the list of 11 11:50:11  
11 schools that Monica referenced in her email from 11:50:14  
12 March 19th? 11:50:18  
13 A. Yes, it does. 11:50:19  
14 Q. Is Bethel included on that list? 11:50:20  
15 A. Yes, they are. 11:50:23  
16 Q. Okay. And St. Joseph's and St. Louis and 11:50:24  
17 St. Margaret are on there too, right? 11:50:34  
18 A. Yes. 11:50:37  
19 Q. And Cathedral? 11:50:38  
20 A. Yes. 11:50:40  
21 Q. I guess I could have just gone through 11:50:40

1 the list and asked you, couldn't I? Sorry about 11:50:41  
2 that. I wasn't very efficient. All right. So 11:50:46  
3 those are all the category three schools. Let's 11:50:50  
4 see here. Where am I at in life? So we're in 11:50:52  
5 March. Okay. Let me do one -- another one here. 11:51:06  
6 So those schools are all going to have 11:51:20  
7 their determinations made then in the spring and 11:51:22  
8 summer, the category three schools; is that right? 11:51:26  
9 A. No. The determinations had to be made 11:51:29  
10 before that point so -- I mean, they were supposed 11:51:32  
11 to be made -- well, before the summer. They 11:51:35  
12 definitely needed to be made around the springtime 11:51:39  
13 for payments to be sent out in a timely manner for 11:51:41  
14 the schools to clear up their books and everything 11:51:45  
15 for that following year. 11:51:48  
16 Q. So what would have been the hard deadline 11:51:49  
17 to get those guys all clear and ready to go? 11:51:53  
18 A. I don't remember what the hard deadline 11:51:56  
19 would have been, no. 11:51:59  
20 Q. Okay. So let's see. Maybe I need to do 11:52:01  
21 the screen share again. So I'm going to look at 11:52:08

1 this should be Exhibit 82. 11:52:13

2 (Whereupon, 2018.05.01 Kearns email 11:52:19

3 listing Bethel as a category 3 school May 1, 2018 11:52:19

4 was entered as Exhibit No. 82 by counsel in Exhibit 11:52:19

5 Share.) 11:52:19

6 BY MR. SCHMITT: 11:52:19

7 Q. Okay. Do you see Exhibit 82, which is 11:52:19

8 Bethel Defendants 3525? 11:52:22

9 A. Yes. 11:52:25

10 Q. All right. So this appears to be an 11:52:25

11 email from Monica to you and it's entitled or the 11:52:29

12 subject is titled Additional Handouts for the Board 11:52:34

13 Meeting and the date on it is May 1st of 2018; is 11:52:38

14 that right? 11:52:47

15 A. Yes, it is. 11:52:47

16 Q. And it looks like the attachments to that 11:52:48

17 are BOOST Letters to Schools to Reconcile Handbook 11:52:49

18 with Nondiscrimination from March and then BOOST 11:52:49

19 Category 3 School Responses to Reconcile the 11:52:56

20 Handbook with the Law. And what's -- what's Monica 11:53:00

21 telling you in the body of the email? 11:53:05

1           A.       "Attached are documents concerning the       11:53:08  
2       Category 3 schools."   Printing out -- she had asked   11:53:11  
3       me to print out the relevant information for the       11:53:14  
4       meeting on Thursday so that we could have the       11:53:17  
5       handouts ready for people that were coming into the   11:53:19  
6       meeting so that they could pick them up and have       11:53:21  
7       them to review in time with the board meeting       11:53:24  
8       talking about everything.                               11:53:27

9           Q.       Okay.   And what were the schools that       11:53:28  
10       were under consideration there that she wanted       11:53:32  
11       printed out?   11:53:34

12          A.       Bethel, Broadfording, and Woodstream.       11:53:35

13          Q.       Great.   Thirty copies of them?           11:53:38

14          A.       Right, 30 copies of all the documents.       11:53:44

15          Q.       Is that about how many people would       11:53:47  
16       attend a meeting?                                       11:53:49

17          A.       At any given meeting it depended on what       11:53:51  
18       somebody was trying to hear about or what was on       11:53:58  
19       the docket to be discussed so it varied how many       11:54:01  
20       people we had attend, but in addition to the Board       11:54:04  
21       and MSDE members that were at the meeting and then   11:54:07

1 who else came in from the general public, there 11:54:11  
2 could be up to 30 people at a meeting. 11:54:15  
3 Q. Okay. So a big crowd. Let's see 11:54:19  
4 here. Okay. So that was then. What did we say 11:54:24  
5 that was? That was -- 11:54:33  
6 A. May 1st. 11:54:35  
7 Q. May 1st. Okay. So let's look at this 11:54:36  
8 one then. May 1st. I'm going to move the stamp on 11:54:41  
9 this so it doesn't block the email chain. 11:54:50  
10 (Whereupon, 2018.05.02 Kearns forwards 11:54:55  
11 legal counsel memo to staff and asks them not to 11:54:55  
12 share outside BOOST Board or staff was entered as 11:54:55  
13 Exhibit No. 83 by counsel in Exhibit Share.): 11:54:55  
14 BY MR. SCHMITT: 11:54:55  
15 Q. This should be Exhibit 83. All 11:54:55  
16 right. So then this is the next day on May 2nd. 11:55:01  
17 Do you see I've marked Exhibit 83 for Bethel 11:55:05  
18 Defendants 3838? 11:55:09  
19 A. It's not sharing. 11:55:09  
20 Q. I didn't share? 11:55:11  
21 A. Mm-mm. 11:55:13

1 Q. Boy, I'm really having a day. Okay. Do 11:55:14  
2 you see that I've got Exhibit 83 for Bethel 11:55:20  
3 Defendants 3838? 11:55:25  
4 A. Yes. 11:55:30  
5 Q. Okay. This appears to be an email from 11:55:30  
6 Monica to you and Kenya and it is dated to you on 11:55:32  
7 May 2nd. So sort of the next day after you were 11:55:43  
8 asked to make those copies of the documents for 11:55:47  
9 Bethel, right? 11:55:52  
10 A. Right. 11:55:53  
11 Q. Okay. Below that you see an email from 11:55:53  
12 Alan Dunklow addressed to Monica and the BOOST 11:55:59  
13 Board members? 11:56:01  
14 A. Right. 11:56:02  
15 Q. From May 1st? 11:56:03  
16 A. Yes. 11:56:05  
17 Q. Okay. And then below that -- so now I'm 11:56:05  
18 on Bethel Defendants 3838.002. It actually starts 11:56:09  
19 on .001 and goes into 002. It's Monica sending the 11:56:15  
20 meeting agenda for that meeting, right, the May 11:56:20  
21 3rd, meeting? 11:56:28

1 A. Right. Mm-hmm. 11:56:29

2 Q. So what's Monica telling you and Kenya at 11:56:32

3 the top? 11:56:35

4 MS. SHERIDAN: I'm going to object to any 11:56:36

5 questions about the legal advice that's contained 11:56:38

6 within this email and I believe that there might be 11:56:47

7 a clawback request as to portions of this email. 11:56:49

8 MR. SCHMITT: Okay. You can answer. I'm 11:56:55

9 not -- I'm not going to ask you about the contents 11:57:03

10 of the legal advice given or anything like that so 11:57:05

11 I'm just asking you what did Monica tell you and 11:57:08

12 Kenya? 11:57:11

13 A. Just to make copies of the -- the legal 11:57:13

14 advice from Liz and Alan for the Board members only 11:57:16

15 for the meeting. 11:57:21

16 Q. Okay. 11:57:21

17 A. Yeah. 11:57:22

18 Q. Okay. And what -- and what does she say 11:57:22

19 in the second line? 11:57:27

20 A. They want it kept confidential at this 11:57:30

21 point. 11:57:36



1 Q. Okay. So she's asking you don't share 11:57:36  
2 it. And this -- was this memo -- this is not the 11:57:38  
3 same memo as the January 18th memo that we're 11:57:46  
4 talking about, right? 11:57:53

5 A. I don't know. I don't know. 11:57:53

6 Q. Okay. So they -- so you're asked to not 11:57:54  
7 share it and so that would not have been emailed 11:57:58  
8 out to all the people who would attend the meeting 11:58:05  
9 like the other one was, right? 11:58:08

10 A. Right. 11:58:10

11 Q. Okay. Thank you. Let's see if I've got 11:58:10  
12 what's next. Already did that. Did you attend the 11:58:28  
13 June 21st, meeting? 11:58:59

14 A. I don't remember. I assume I attended 11:59:01  
15 all -- I believe I attended all the meetings. 11:59:04

16 Q. Okay. You never missed the meeting. Do 11:59:08  
17 you remember the Board considering Bethel 11:59:11  
18 specifically at any of the meetings? 11:59:15

19 A. I remember that Bethel -- the principal 11:59:19  
20 of Bethel was supposed to actually speak at I want 11:59:22  
21 to say more than one of the meetings, but the -- 11:59:25

1 she didn't attend a couple of times or she wasn't 11:59:31  
2 able to attend because something came up so she 11:59:35  
3 wasn't able to speak to the Board like she wanted 11:59:36  
4 to. 11:59:39

5 Q. Okay. Do you know whether she sent a 11:59:39  
6 statement or anything else? 11:59:42

7 A. I don't recall a statement being received 11:59:46  
8 or anything being said then in regards to that. 11:59:48

9 Q. Do you recall receiving any of the 11:59:51  
10 corresponding -- or reviewing any of the 11:59:57  
11 correspondence that Bethel would have sent back to 11:59:59  
12 the Board after -- after Matt Gallagher sent that 12:00:02  
13 letter requesting information? 12:00:08

14 A. I don't recall. 12:00:10

15 Q. Okay. And you were -- were you not -- 12:00:14  
16 you were not involved in any of those conversations 12:00:17  
17 about the explanations that the schools gave, 12:00:20  
18 right? 12:00:23

19 A. What -- I guess I should ask what do you 12:00:24  
20 mean by involve? 12:00:27

21 Q. Well, would you talk -- would you talk 12:00:30

1 over those responses with like Monica or anybody 12:00:34  
2 else? 12:00:38  
3 A. Oh, no, I wasn't involved in that. 12:00:38  
4 Q. Let's see. 12:00:41  
5 MR. SCHMITT: I think Ann, I'm pretty 12:00:49  
6 close to being done here. I don't know if you're 12:00:52  
7 going to have anything for her or not, but do you 12:00:54  
8 want to take five and get oriented and then we'll 12:00:56  
9 come back and finish up? 12:01:00  
10 MS. SHERIDAN: That sounds great. Okay. 12:01:02  
11 MR. SCHMITT: Okay. Let's do that. 12:01:05  
12 (Whereupon, a brief discussion was held 12:01:40  
13 off the written record.) 12:01:40  
14 VIDEOGRAPHER: Okay. Off the record at 12:01:40  
15 12:01. 12:01:42  
16 (Whereupon, a brief recess was taken.) 12:01:47  
17 VIDEOGRAPHER: Back on the record at 12:13:06  
18 12:13 p.m. 12:13:13  
19 MR. SCHMITT: Okay. Thanks, Eliza. 12:13:15  
20 BY MR. SCHMITT: 12:13:21  
21 Q. Felicia, I think you've been very patient 12:13:21

1 with me. I'm almost done and I can let you move on 12:13:23  
2 with your day and your life. Okay. I think we 12:13:27  
3 walked through most of the timeline where you were 12:13:35  
4 involved. I want -- I just had a global 12:13:37  
5 clarification question. 12:13:40

6 So when you were going through handbooks 12:13:41  
7 and all of that after the Trinity Lutheran language 12:13:42  
8 was found, was there ever any time from then until 12:13:51  
9 you left MSDE that you were ever asked to 12:13:55  
10 investigate an allegation of discrimination against 12:14:00  
11 a school on the basis of sexual orientation? 12:14:04

12 A. Do you mean was I personally asked to 12:14:10  
13 look into something? No, there was never a time 12:14:14  
14 that I was personally asked to look into anything. 12:14:17

15 Q. Were you aware or are -- were you aware 12:14:20  
16 or are you aware of any allegation that a -- that 12:14:22  
17 one of the BOOST schools actually denied a student 12:14:24  
18 admission on the basis of sexual orientation? 12:14:28

19 A. No, I'm not aware of anything like that. 12:14:31

20 Q. Okay. And then I've got like a bunch of 12:14:34  
21 random questions that I always ask everybody at the 12:14:41

1 end of these things. What did you do to prepare 12:14:44  
2 for today? 12:14:49

3 A. I mean, I talked to Ms. Sher -- 12:14:50  
4 Ms. Sheridan about what would be expected of me, 12:14:53  
5 but other than that, I didn't -- I didn't really do 12:14:58  
6 anything. I don't have like any old documents or 12:15:04  
7 anything that I could have reviewed. 12:15:07

8 Q. Okay. Good. Good. I imagine that would 12:15:08  
9 be the kind of thing you hang onto 12:15:12  
10 anyway. Okay. Do you -- Did you ever at any point 12:15:16  
11 talk to anybody in the media about the handbook 12:15:24  
12 thing or Bethel or any of the schools involved? 12:15:28

13 A. No, I didn't talk to anybody from the 12:15:32  
14 media in regards to BOOST or the handbook. 12:15:35

15 Q. Did you ever talk to anybody from the 12:15:37  
16 Maryland PTA about any of the handbook issues or as 12:15:40  
17 far as BOOST? 12:15:44

18 A. No. 12:15:46

19 Q. Okay. Did you ever talk to anybody from 12:15:46  
20 like the ACLU about any of these issues? 12:15:50

21 A. No. I never talked to anybody directly 12:15:55

1 about anything that un -- related to 12:15:58  
2 this. Anything that anybody asked would be 12:16:01  
3 straight BOOST questions as far as like how the 12:16:04  
4 program works and things like that. 12:16:07  
5 Q. I thought that's probably right. What 12:16:09  
6 about as far as your interactions with BOOST Board 12:16:17  
7 members go, did any BOOST Board members ever like 12:16:19  
8 call or reach out to you with clarifying questions 12:16:23  
9 or stuff, administrative stuff, about the program? 12:16:26  
10 A. No, not outside of the Board meetings. 12:16:32  
11 Q. Okay. So at a meeting somebody might ask 12:16:36  
12 you a one off thing -- 12:16:38  
13 A. Yeah. 12:16:41  
14 Q. -- but you wouldn't get an email from 12:16:41  
15 somebody or something like that? 12:16:46  
16 A. No -- if I did get anything from a board 12:16:49  
17 member, it was related to like them scheduling 12:16:58  
18 dates for things. Nothing was in reference to 12:17:08  
19 anything outside of that. It would be if they 12:17:11  
20 couldn't make a meeting or something like that; 12:17:14  
21 they would let me know in the email. 12:17:16

1 Q. More administerial? 12:17:18

2 A. Yes. 12:17:23

3 Q. Did you -- okay. I think I got that 12:17:28

4 answer. When you were leaving MSDE, I know Valerie 12:17:31

5 Carpenter had been a recently new addition 12:17:46

6 there. Was there anything you kind of did to 12:17:51

7 prepare your team for your departure as far as like 12:17:56

8 handing over institutional knowledge or anything 12:18:01

9 like that? 12:18:03

10 A. I did have to work closely with Valerie 12:18:03

11 when -- as far -- far as giving her information 12:18:06

12 that I had or any books or notebooks or anything 12:18:08

13 that I had or any relevant information to what my 12:18:12

14 day-to-day duties were since nobody was going to be 12:18:15

15 in that position at the time. 12:18:19

16 So I did things like that when I was 12:18:21

17 segueing out, like passcodes to the email -- voice 12:18:23

18 mails and so on so that she had access to that or 12:18:25

19 the BOOST mailbox so that she had access to those 12:18:29

20 emails as well. 12:18:33

21 Q. Did -- I should have asked this earlier, 12:18:35

1 but I forgot about it. Did -- when you were doing 12:18:37  
2 your review of handbooks and certain things would 12:18:42  
3 kind of act as triggers or something for flagging, 12:18:45  
4 did language about gender or gender identity act as 12:18:50  
5 a trigger or a flag for you? 12:18:55

6 A. No, it was usually just -- or it was 12:19:01  
7 homosexuality or same sex -- information about 12:19:09  
8 sexuality in that regard. 12:19:14

9 Q. Okay. 12:19:15

10 MR. SCHMITT: Okay. I think that's all 12:19:16  
11 I've got at, Ann. I don't know if you have 12:19:18  
12 anything. 12:19:20

13 MS. SHERIDAN: No, I don't have any 12:19:21  
14 questions. Ms. Shearer, we will take a copy and 12:19:22  
15 you have my information, correct? 12:19:26

16 COURT REPORTER: Yes. And read and sign? 12:19:43

17 MR. SCHMITT: You're muted. 12:19:43

18 COURT REPORTER: Would you like to read 12:19:43  
19 and sign? Could you hear me? 12:19:43

20 MS. SHERIDAN: Felicia, you have the 12:19:43  
21 option of reviewing your transcript for -- and 12:19:46



1 you're looking for accuracy, like not to change any 12:19:46  
2 of the -- the testimony, but to make sure it's 12:19:50  
3 accurate regarding -- you know, that there are no 12:19:53  
4 typos that the -- the court reporter didn't write 12:19:57  
5 down one name when it was actually a different 12:20:00  
6 name. So I usually -- I think it's a good process. 12:20:03  
7 I usually recommend reading and signing. 12:20:10

8 THE WITNESS: Okay. That's -- I can do 12:20:12  
9 that. That's fine. 12:20:13

10 VIDEOGRAPHER: Okay. I'll get us off the 12:20:15  
11 video record. Off the video record at 12:20 p.m. 12:20:16

12 (Whereupon, having not waived reading and  
13 signing, the examination of FELICIA WISE concluded  
14 at 12:20 p.m.)

15  
16  
17  
18  
19  
20  
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 27th day  
18 of April, 2021.

19 

20 Allison L. Shearer, Notary Public  
21 My Commission Expires March 18, 2022

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**[witness - zoom]**

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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.



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# **EXHIBIT 20**

**From:** Monica Kearns -MSDE- <monica.kearns@maryland.gov>

**To:** Matthew Gallagher <matt@goldsekerfoundation.org>

**Subject:** BOOST update

**Date:** Tue, 14 Nov 2017 17:32:29 -0500

**Attachments:** BOOST\_summary\_11-14-17.xlsx

**Inline-Images:** changingMD.png

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Matt,

As an update:

1) There are 597 scholarships representing \$1.6 million that cannot be issued (at least not in the first payment batch) due to one or more of these factors for each case:

- Enrollment of student has not been confirmed;
- School did not agree to Assurances;
- School did not submit assessment results;
- School did not complete the teacher certification survey;
- Non-BOOST financial aid plus BOOST aid for the student exceeds tuition to the extent that the BOOST award is reduced to zero.

Attached is a summary spreadsheet I am working on to show this.

2) We have decided that we need to review the student handbooks or related admissions documents for all 180 of the BOOST eligible schools to look for discriminatory language.

Felicia and Jamie have received calls from a few schools about the Assurances and they could tell from the conversations that the schools were uneasy about the requirement to not discriminate on sexual orientation. Felicia and Jamie looked at the handbooks for two of these schools (Highland View Academy and Frederick Adventist Academy) and they contain discriminatory language. They reported this to me, and I decided that we need to review all the handbooks; Liz agrees.

We are going to send a letter to BOOST eligible schools letting them know that we will be reviewing handbooks or related admissions documents.

Please let me know if you have questions, and let me know if I should convey this information to the other Board members at this point.

Thanks,  
Monica

--



Monica Kearns  
Assistant Superintendent, Division of Business Services  
Maryland State Department of Education  
200 West Baltimore Street  
Baltimore, Maryland 21201  
[monica.kearns@maryland.gov](mailto:monica.kearns@maryland.gov)  
[410-767-8863](tel:410-767-8863) (office)

[Click here](#) to complete a three question customer experience survey.

**Exhibit**  
75

# **EXHIBIT 21**

**From:** Claire Dant <claire.dant@teambethel.org>

**To:** Donna Gunning <donna.gunning@maryland.gov>

**Subject:** Re: BOOST Program Invoice - Bethel Christian Academy

**Date:** Fri, 24 May 2019 14:23:46 -0400

**Inline-Images:** changingMD.png

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Donna,

Thank you so much for this information. We will review it right away.

Sincerely,

Claire

On Fri, May 24, 2019 at 12:47 PM Donna Gunning <[donna.gunning@maryland.gov](mailto:donna.gunning@maryland.gov)> wrote:  
Claire -

The alternate language that we discussed is in the attached word document. The attached pdf document contains revised handbook pages from impacted schools.

I hope this information is helpful. Please let me know if you have any questions.



Donna Gunning, Executive Director  
Maryland State Department of Education  
Office of Finance and  
Administration  
Office of Policy and Fiscal Analysis  
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410-333-2232 (fax)  
[donna.gunning@maryland.gov](mailto:donna.gunning@maryland.gov)

[Click here](#) to complete a three question customer experience survey.

On Fri, May 3, 2019 at 11:18 AM Claire Dant <[claire.dant@teambethel.org](mailto:claire.dant@teambethel.org)> wrote:  
Sounds good, thank you!

On Fri, May 3, 2019 at 10:56 AM Donna Gunning <[donna.gunning@maryland.gov](mailto:donna.gunning@maryland.gov)> wrote:  
Claire -

That's fine. I will work to get you that document as soon as possible, but as I mentioned, it won't be until late next week at the earliest.



Donna Gunning, Executive Director  
Maryland State Department of Education  
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Administration  
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410-333-2232 (fax)

[donna.gunning@maryland.gov](mailto:donna.gunning@maryland.gov)

[Click here](#) to complete a three question customer experience survey.

On Fri, May 3, 2019 at 10:54 AM Claire Dant <[claire.dant@teambethel.org](mailto:claire.dant@teambethel.org)> wrote:

Hi, Donna,

Yes, if you could send the updated version of that document to us, that would be very helpful. We will plan to respond to your letter about re-qualifying for BOOST and repayment options after we receive that document, if that's all right.

Thank you!

Claire

—

On Thu, May 2, 2019 at 3:29 PM Donna Gunning <[donna.gunning@maryland.gov](mailto:donna.gunning@maryland.gov)> wrote:

Claire -

I have been in contact with the Attorney General's office and they provided a document that was shared with schools in early 2018. I will update that document and provide it to you, but it won't be until late next week or early the following week. Will that work?



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410-333-2232 (fax)  
[donna.gunning@maryland.gov](mailto:donna.gunning@maryland.gov)

[Click here](#) to complete a three question customer experience survey.

On Thu, May 2, 2019 at 2:52 PM Donna Gunning <[donna.gunning@maryland.gov](mailto:donna.gunning@maryland.gov)> wrote:

Claire -

Unfortunately, the BOOST program has not suggested alternative language to any schools with discriminatory language in their handbooks.



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410-333-2232 (fax)  
[donna.gunning@maryland.gov](mailto:donna.gunning@maryland.gov)

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On Thu, May 2, 2019 at 2:50 PM Claire Dant <[claire.dant@teambethel.org](mailto:claire.dant@teambethel.org)> wrote:  
Ms. Gunning,

Yes, I do believe the letter included the language at issue. However, I am mostly looking for guidance regarding specific revisions suggested that would be acceptable. Might that be provided?

Thanks,

Mrs. Dant

On Thu, May 2, 2019 at 2:36 PM Donna Gunning <[donna.gunning@maryland.gov](mailto:donna.gunning@maryland.gov)> wrote:  
Claire -

I believe I provided the letter sent by the BOOST Board which identified the specific language at issue in the school's handbook. If that is not what you're looking for, please let me know.



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[donna.gunning@maryland.gov](mailto:donna.gunning@maryland.gov)

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On Thu, May 2, 2019 at 9:08 AM Claire Dant <[claire.dant@teambethel.org](mailto:claire.dant@teambethel.org)> wrote:

Dear Ms. Gunning,

I just wanted to follow up my request for guidance on handbook revisions per my email on April 11, 2019. Specifically, could you tell us what kinds of revisions have been deemed acceptable, and which provisions in Bethel's handbook are problematic?

Thank you!

Claire

On Thu, Apr 11, 2019 at 7:47 AM Donna Gunning <[donna.gunning@maryland.gov](mailto:donna.gunning@maryland.gov)> wrote:

Claire -

I thought I responded to this request earlier in the week - I apologize if you did not receive the response. We are fine with extending the deadline.

On Thu, Apr 11, 2019 at 7:44 AM Claire Dant <[claire.dant@teambethel.org](mailto:claire.dant@teambethel.org)> wrote:

Ms. Gunning,

In your letter, you mentioned that the BOOST Advisory Board has restored schools' eligibility based on their handbook revisions. Could you share some more information about what kinds of revisions would have to be made for Bethel to be eligible for the 2019-2020 school year? I'd appreciate any guidance you can provide.

I also wanted to follow up on my request for an extension till May 4 to respond more fully to your letter. Can you let me know if that would be acceptable?

Thank you!

Claire Dant

BCA Principal

On Thu, Apr 4, 2019 at 11:56 AM Donna Gunning <[donna.gunning@maryland.gov](mailto:donna.gunning@maryland.gov)> wrote:

Ms. Dant and Ms. Wecker -

The BOOST Program sent a letter via certified mail to Bethel Christian Academy regarding the school's participation in the BOOST Program, which provides publicly-funded scholarships for income-eligible students to attend nonpublic schools.

The letter included information on the school's status in the program as well as options for repaying the funds provided to Bethel Christian Academy. The deadline to respond to that offer has passed.



An electronic copy of the letter is attached and this email is a reminder and request to respond to this offer by not later than Friday, April 13, 2019.

Thank you for your attention to this matter.



Donna Gunning, Executive Director  
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Administration  
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[Baltimore, Maryland 21201](#)  
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410-333-2232 (fax)  
[donna.gunning@maryland.gov](mailto:donna.gunning@maryland.gov)

[Click here](#) to complete a three question customer experience survey.

--

Claire M. Dant  
Principal, Bethel Christian Academy

*"The only thing that counts is faith expressing itself through love." Galatians 5:6*

--

Sent from Gmail Mobile

--

Claire M. Dant  
Principal, Bethel Christian Academy

*"The only thing that counts is faith expressing itself through love." Galatians 5:6*

--

Claire M. Dant  
Principal, Bethel Christian Academy

*"The only thing that counts is faith expressing itself through love." Galatians 5:6*

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Claire M. Dant  
Principal, Bethel Christian Academy

*"The only thing that counts is faith expressing itself through love." Galatians 5:6*

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Claire M. Dant  
Principal, Bethel Christian Academy

*"The only thing that counts is faith expressing itself through love." Galatians 5:6*

--

Claire M. Dant  
Principal, Bethel Christian Academy

*"The only thing that counts is faith expressing itself through love." Galatians 5:6*

# **EXHIBIT 22**



Deposition of:  
**Matthew Gallagher**

*April 30, 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

vs. Case No. 1:19-CV-01853-SAG  
DR. KAREN B. SALMON, et al  
Defendants

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The Videotape Deposition of MATTHEW  
GALLAGHER was held on Friday, April 30, 2021, at 9:33  
a.m., at 1040 Park Avenue, Suite 310, Baltimore,  
Maryland 21201, before Susan A. Kambouris, Notary  
Public.

Also Present: Seth Lucas and Eliza Spikes,  
Videographer (Via Zoom)  
REPORTED BY: Susan A. Kambouris (Via Zoom)

1 APPEARANCES:

2

3 ON BEHALF OF THE PLAINTIFF:

4 PAUL DANIEL SCHMITT, ESQUIRE (Via Zoom) and

5 RYAN J. TUCKER, ESQUIRE (Via Zoom)

6 Alliance Defending Freedom

7 440 First Street N.W., Suite 600

8 Washington, D.C. 20001

9 Telephone: (480) 444-0020

10 Email: PSchmitt@ADFlegal.org

11

12 ON BEHALF OF THE DEFENDANTS:

13 ROBERT A. SCOTT, ASSISTANT ATTORNEY GENERAL

14 ANN SHERIDAN, ASSISTANT ATTORNEY GENERAL and

15 JUSTINE E. FINE, ASSISTANT ATTORNEY GENERAL

16 Maryland Attorney General's Office

17 200 Saint Paul Place, 20th Floor

18 Baltimore, Maryland 21202

19 Telephone: (410) 576-6300

20 Email: rscott@oag.state.md.us,

21 asheridan@oag.state.md.us and jfine@oag.state.md.us

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Deposition of Matthew Gallagher  
April 30, 2021

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Deposition of Matthew Gallagher

April 30, 2021

GALLAGHER EXHIBITS

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1 P R O C E E D I N G S

2 THE VIDEOGRAPHER: Good morning. We are  
3 going on the video record at 9:33 a.m. on Friday, April  
4 30th, 2021. This is Media Unit 1 in the Video-Recorded  
5 Deposition of Mr. Matthew Gallagher, taken in the  
6 matter of Bethel Ministries versus Salmon, Inc., filed  
7 in the United States District Court for the District of  
8 Maryland, Northern Division, 1:19-CV-01853. This  
9 deposition is being held via Zoom. My name Eliza  
10 Spikes from the firm Veritext. The court reporter  
11 today is Miss Susan Kambouris, also from Veritext. I  
12 am not related to any party in this action, nor am I  
13 financially interested in the outcome. Counsel and all  
14 present in the room, and anyone attending remotely will  
15 now state their appearances and affiliations for the  
16 record. If there are any objections to the proceeding,  
17 please state them at the time of your appearance,  
18 beginning with the noticing attorney.

19 MR. TUCKER: This is Ryan Tucker. I will  
20 be taking the deposition today. I represent Plaintiff,  
21 Bethel Ministries. With me observing is Jacob Reed and

1 Paul Schmitt. In addition to that, Seth Lucas is also  
2 on the line. He is part of our firm, as well.

3 MR. SCOTT: This is Robert Scott from the  
4 office of the Maryland Attorney General, representing  
5 the Defendants and the witness, and also observing the  
6 deposition today from my office are Ann Sheridan and  
7 Justin Fine.

8 THE VIDEOGRAPHER: Thank you, sir. Will  
9 you raise your right hand, please? Do you solemnly  
10 swear and affirm that the testimony you are about to  
11 give today is the truth, the whole truth, and nothing  
12 but the truth?

13 THE WITNESS: Yes.

14 THE VIDEOGRAPHER: You are sworn. Thank  
15 you. You may proceed.

16 Whereupon:

17 MATTHEW GALLAGHER,  
18 was called on for examination by counsel, and after  
19 being duly sworn according to law, was examined and  
20 testified as follows:

21 EXAMINATION BY MR. TUCKER:

1 Q Can you please state your full name, for  
2 the record?

3 A Matthew Dennis Gallagher.

4 Q Mr. Gallagher, before we went on the  
5 record, I believe you mentioned that you would prefer I  
6 call you Matt. Does Matt work for you?

7 A Please. Thank you.

8 Q On occasion, I am probably going to slip up  
9 and say Mr. Gallagher. So, I apologize if I go back  
10 and forth between the two. As for me, you can call me  
11 whatever you like. If, at some point I ask a question  
12 that is unclear, I will do my best to rephrase that  
13 question. Before we get started, have you ever had a  
14 deposition before?

15 A Yes.

16 Q How many times?

17 A Multiple. Maybe 3, 4, 5, something in that  
18 neighborhood.

19 Q So, 3 to 5. Can you tell me, what types of  
20 cases were those that you had your deposition taken in?

21 A In 2020, I was deposed as part of the

1 times. Typically, what would happen is, we would get a  
2 Board packet in advance of the meeting, and we would  
3 generally discuss everything at the meeting. You know,  
4 there wasn't a lot of activity outside of the formal  
5 meeting structure.

6 Q You said there wasn't a lot. Was there  
7 some activity outside the formal meeting structure?

8 A I mean, from time-to-time, there would be  
9 notification from MSDE about an issue, or, you know, a  
10 letter, or a complaint. From time-to-time, there might  
11 be somebody who would reach out to a Board Member with  
12 an issue or complaint that would be referred to MSDE.  
13 So, it generally didn't encompass the whole Board.  
14 They would, from time-to-time, be, like, administrative  
15 matters that the MSDE Staff would bring to me, in my  
16 capacity as Chair, but, you know, in the first year,  
17 there was a considerable amount of intensity to it. It  
18 lessened over the course of time.

19 Q Besides the BOOST Board and counsel, to the  
20 extent that they were present, who else did you speak  
21 to about the complaint that had been lodged regarding

1 Trinity Lutheran?

2           A        So, at various points in time, I would  
3 notify the Senate President and Speaker's Office, you  
4 know, regarding complaints or issues that might surface  
5 related to BOOST that I thought had a possibility of  
6 becoming public issues. As an appointee of the General  
7 Assembly and, specifically, of the leaders of the two  
8 chambers, I thought it was kind of important to keep  
9 them notified. There were a handful of legislators  
10 that had particular interest in BOOST that would  
11 sometimes reach out and ask me about how things were  
12 going. Also, you know, people whose orbit I come into  
13 somewhat regularly. Then, there are a handful of, you  
14 know, stakeholders that are kind of representative of  
15 BOOST-related interests. Probably most importantly,  
16 the Archdiocese of Baltimore, and Washington, D.C., and  
17 there is a Rabbi who generally represents the Jewish  
18 day schools. They were kind of one-stop shops for a  
19 significant percentage of the schools, and, from  
20 time-to-time, I would receive media inquiries related  
21 to the background of the program and the administration

1 of the program that I would respond to.

2 Q You said that there were certain state  
3 legislators that had an interest in BOOST. Do you  
4 recall who those individuals were that you spoke to  
5 about this particular complaint involving Trinity?

6 A So, I don't have specific recall about  
7 Trinity I spoke to this legislator as opposed to that  
8 legislator. I mean, I can certainly tell you the  
9 legislators with whom I have had frequent interaction  
10 as it relates to BOOST.

11 Q Who have you had the frequent interactions  
12 with?

13 A So, Meg MacIntosh, Rich Manolino, who is no  
14 longer a legislator, Ann Kaiser, the Speaker and the  
15 Senate President's Office, and, sometimes, that  
16 involves staff, sometimes that involves the principals.  
17 It's generally been related to Budget Staff and Budget  
18 Committee Legislators who have shown the most interest,  
19 and, then, there are specific Delegates and Senators,  
20 Sandy Rosenberg, Shelly Haldeman, Antonio Haze, who had  
21 either school-specific issues, or, you know,

1 geographic-specific issues.

2 Q So, after you received the complaint from  
3 the Maryland PTA, what did you decide to do next?

4 A Well, I mean, it was the first complaint  
5 that we had received in this kind of vein. It was of  
6 interest. You know, we took it seriously. I believe  
7 that we talked about it at the Board. Ultimately, MSDE  
8 made the decision to request information, I believe,  
9 specific to their handbook, reached out to the school  
10 after the issue had been surfaced by the PTA, and,  
11 ultimately, MSDE decided to request handbooks from all  
12 of the participating schools.

13 Q And they did so as a result of receiving  
14 that particular complaint from Maryland PTA?

15 A So, my recollection is that that was the  
16 first time the issue had surfaced, that as they looked  
17 into the situation at Trinity Lutheran, they then  
18 decided that they needed to expand beyond Trinity.  
19 They requested the information from the other  
20 participating schools.

21 Q What did the Maryland PTA want you to do

1 relative to their complaint regarding Trinity Lutheran?

2 A So, I mean, I -- I can see the letter from  
3 the PTA because I reviewed it a couple of weeks ago in  
4 preparation for the deposition. I remember it being a  
5 2-page letter. I remember them being very concerned  
6 about it. You know, the PTA, you know, from kind of a  
7 map road position, had not been supportive of BOOST,  
8 and they were elevating the issue to our attention. I  
9 remember specifically that they voiced some concerns  
10 about any public dollars going to non-public schools.  
11 So, they were essentially, like, reiterating the public  
12 position, but, then, they expressed concern about the  
13 potential for discriminatory practices in the schools  
14 that were participating in the BOOST Program.

15 Q I am showing you what has been previously  
16 marked as Exhibit 32.

17 MR. SCHMITT: On a break, I am going to  
18 have to figure out how to make sure the stickers show  
19 up on the bottom, but --

20 THE WITNESS: I can't see it.

21 MR. SCHMITT: You can't see it?



1           A           So, this is probably somewhat repetitive of  
2 the process explanation. In the cases that would come  
3 to the BOOST Board, we would review the specific  
4 handbook language. We would, you know, ask MSDE, or  
5 the Attorney General's Office, or both why these  
6 particular cases were escalated up to the BOOST Board,  
7 and we would have a discussion, you know, based on what  
8 we have, which is kind of -- it is probably referenced  
9 as the BERTHA Language, but the Budget Bill, sometimes  
10 referred to as the BOOST Law, you know, what  
11 information that we have there, we would evaluate the  
12 specific handbook language, and any supplemental  
13 information that would have been provided by the  
14 particular school, and, then, we would make a  
15 determination at a point in time where we felt like we  
16 had the necessary information or complete information.

17           Q           Did the BOOST Board have ultimate  
18 decision-making authority in deciding whether or not  
19 the language in this particular school handbook was  
20 compliant with a nondiscrimination language and the  
21 BOOST Law?

1           A           I would say that the BOOST Board had  
2           ultimate -- I am not sure what word you used, but for  
3           the decisions that we made on the cases that came to  
4           the BOOST Board, the BOOST Board had the final  
5           decision-making authority. For the majority of the  
6           handbooks that were reviewed by MSDE and the AG's  
7           Office, the determination was made before reaching the  
8           BOOST Board.

9           Q           Right, because I think, as you mentioned  
10          earlier, in some instances, those handbooks never  
11          reached your level. So, it wasn't even a question that  
12          was posed for you to answer.

13          A           Correct.

14          Q           All right. Looking again at Subsection D,  
15          the next sentence says, "Nothing herein shall require  
16          any school or institution to adopt any rule,  
17          regulation, or policy that conflicts with its religious  
18          or moral teachings." It goes on to say, "However, all  
19          participating schools must agree that they will not  
20          discriminate based on race, color, national origin, or  
21          sexual orientation." So, looking at those two

1 person as male and female to reflect his image."

2 A I am sorry. What was the question?

3 Q Earlier, you mentioned that the problematic  
4 language included, "Therefore, faculty, staff, and  
5 student conduct is expected to align with this view."

6 A Yes.

7 Q So, my question to you is: Which view is  
8 problematic? Is it the sentence that comes before it?

9 A I think it is probably specifically the  
10 first half of the sentence that comes before it, "The  
11 biblical view of marriage is defined as a covenant  
12 between one man and one woman," and, then, I think the  
13 issue specific to this language is probably related to  
14 the word, "conduct," and what that would potentially  
15 entail.

16 Q Did you have a standard that you were  
17 utilizing before you sent this letter out to determine  
18 whether or not this language was -- should be flagged,  
19 or it is problematic, resulting in their expulsion from  
20 the program?

21 MR. SCOTT: Objection.

1 indicated it had not discriminated in its admissions  
2 practices. That was a somewhat common response when  
3 the handbook language was reviewed at other schools, as  
4 well. You know, we were making decisions based on the  
5 handbook language, and whether or not it ran afoul of  
6 the Assurance language or the nondiscrimination  
7 requirements. We were not acting specific to a student  
8 or parent complaint regarding the school.

9 Q Just to be clear, even beyond Bethel, the  
10 BOOST Board never reached out to any school and asked  
11 specifically whether or not they had denied admission  
12 to a non-heterosexual student in its place?

13 MR. SCOTT: Objection to form.

14 A My answer to that would be that, you know,  
15 the BOOST Board individual members didn't reach out to  
16 individual schools. Obviously, there was  
17 correspondence that, you know, went out under my  
18 signature, and came from the BOOST Program. We  
19 requested the handbook language. We reviewed the  
20 handbook language. In some cases, there were a series  
21 of exchanges that would subsequently happen, and we

1 would make a decision. We were not acting on any  
2 individual family or student-driven complaint. I do  
3 not recall there being an instance of a parent or a  
4 student coming to the BOOST Board or the MSDE Staff and  
5 alleging a specific instance of discrimination.

6 Q And, even as we sit here today, has that  
7 taken place?

8 A I don't believe so.

9 Q I guess looking at the entirety of this  
10 exhibit -- and, again, feel free if you need to go  
11 through it. I am happy to allow you that opportunity.  
12 Can you show me where it says in Exhibit No. 2 that a  
13 non-heterosexual individual be denied admission in  
14 Bethel?

15 A Do you want me to go through the whole  
16 document and read it and say that that is not in there,  
17 because I suspect it's not, but I haven't --

18 Q I mean, it is really your choice. I am  
19 just asking the question.

20 MR. SCOTT: Objection.

21 THE WITNESS: I am sorry.

1 asking.

2 Q Relative to a school's continuing  
3 involvement in the BOOST Program.

4 A If the MSDE -- if MSDE and the Attorney  
5 General's Office reviewed a situation and said, there  
6 is clear, you know, discrimination here, they would  
7 generally act and make a determination as to the  
8 school's eligibility to participate in the program. If  
9 there was an area where there was ambiguity, or  
10 uncertainty, or additional clarity was needed, they  
11 this would bring this up to the Board. The Board  
12 would, you know, look at the information that was  
13 available, potentially request more information, pose  
14 questions to the school, and to the Attorney General's  
15 Office, and, then, ultimately, make a decision.

16 MR. TUCKER: Objection, non-responsive.

17 Q Let me ask you this: What does it mean to  
18 not discriminate in student admissions on the basis of  
19 gender expression?

20 MR. SCOTT: Objection.

21 A Gender identity or expression. So, my

1 guess is the expression would be if a student indicates  
2 that they are -- if they are biologically born as a  
3 male or a female, but they express themselves, you  
4 know, differently, that that would be expression. You  
5 know, identity, there are probably distinctions between  
6 identity and expression, you know, in terms of giving  
7 voice to a feeling versus potentially acting on that  
8 feeling. Whether that's an act, or the way a person  
9 dresses, you know, that's the answer off the top of my  
10 head, but that's not, you know -- it is not something I  
11 have given any consideration to. Again, I am sorry,  
12 this is the first time I have seen the budget language  
13 this year.

14 Q Well, to be fair, though, the gender  
15 identity and gender expression language has been in  
16 there beyond this past year, correct?

17 A There is -- I think in the  
18 nondiscrimination language, maybe in the assurances,  
19 gender identity was added at some point in time. You  
20 know, I think that the budget language since 2016 and  
21 the Assurance language since 2016 has undergone

1 the principal has submitted a couple of different  
2 responses at different points in time. In a  
3 reconsideration, we would probably, like, review the  
4 substance of those communications to see if they raised  
5 any other issues. When I look up at the Admissions  
6 Policy above, not just the Statement of  
7 Nondiscrimination, I don't know if it would have  
8 triggered MSDE to ask for the Code of Conduct to see if  
9 there was anything problematic in the Code of Conduct.  
10 You know, obviously, the Admissions Policy draws a  
11 linkage between the Code of Conduct and continued  
12 enrollment, and, you know, my recollection in the  
13 correspondence with the Principal from Bethel, I  
14 believe that we may have used the word, "losery,"  
15 again, in terms of, like, you know, it is one thing to  
16 say you don't get in, or that it's not factored into  
17 admission, but if you, you know, turn around and expel  
18 somebody because of one of these issues, that could be  
19 a problem in terms of participation in the program, but  
20 I think those are issues that MSDE and the Attorney  
21 General's Office would probably review in advance of it



1 coming to the BOOST Board. Then, if those things were  
2 satisfied, the BOOST Board would consider the  
3 information and act.

4 Q You mentioned the correspondence between  
5 the BOOST Board and Bethel. One of those letters -- I  
6 don't have it at my disposal at the moment -- one of  
7 those letters, I believe, requested return of funds  
8 Bethel received as a result of participation in BOOST,  
9 is that correct?

10 A Yes.

11 Q And I believe most individuals that have  
12 spoken about the topic refer to it as the quote,  
13 unquote, clawback, is that a fair term?

14 A Yes.

15 Q Can you explain to me what sort of analysis  
16 goes into determining whether or not the BOOST Board  
17 requests that money given be clawed back and  
18 requested -- returned by those particular schools?

19 A Yeah, I mean, that's a very broad question,  
20 but, you know, I think there is multiple elements to  
21 it. The BOOST Language, you know -- so, basically, to

1 participate in the program, you have to be an eligible  
2 school. If you are determined to be eligible dating  
3 back to the Textbook Program, and rolling into the  
4 BOOST Program, you have since been required to sign  
5 Assurance documents. Between the BOOST Bill, and the  
6 Assurance document, there are provisions that require  
7 schools to maintain the enrollment of a student, et  
8 cetera, et cetera, et cetera. If we have found that  
9 the school is not compliant with the program  
10 requirements of BOOST, if they are, you know, not  
11 acting consistent, or do not have policies consistent  
12 with the Assurance language, there is language that  
13 says the State or BOOST shall be able to take back the  
14 money and requiring the school to maintain the  
15 student's enrollment. There are also provisions that  
16 make the scholarship award -- assuming that the student  
17 remains eligible, the scholarship award is portable,  
18 meaning that they can take the scholarship award to  
19 another BOOST-eligible school. On the clawback issue,  
20 we have attached significance to the word, "shall."  
21 We have sought guidance from the Attorney General's

1 Q Okay. Is Exhibit 134 a tweet from Reverend  
2 Grey that you retweeted?

3 A Yes.

4 Q It is dated March 15. Do you see that?

5 A I do.

6 Q Was this tweet in response to the Catholic  
7 Church's position that it cannot bless same-sex  
8 marriage?

9 A There was something put out by the Catholic  
10 Church that particular day or the day prior. I can't  
11 remember the specific name of the document, but, yes,  
12 it was in response to a Catholic Church announcement  
13 that day.

14 Q Was it from a Congregation for the Doctrine  
15 of the Faith?

16 A It is possible. I don't remember  
17 specifically who it originated with.

18 Q Do you recall whether that document  
19 concerned same-sex marriage?


20 A I do. It had to do with the blessing of  
21 same-sex marriages, but --

1 I, Susan Kambouris, a Notary  
2 Public of the State of Maryland, County of Baltimore,  
3 do hereby certify that the within-named witness  
4 personally appeared before me at the time and place  
5 herein set out, and after having been duly sworn by  
6 me, according to law, was examined by counsel.

7 I further certify that the examination was  
8 recorded stenographically by me and this transcript is  
9 a true record of the proceedings.

10 I further certify that I am not of  
11 counsel to any of the parties, nor in any way  
12 interested in the outcome of this action.

13 As witness my hand and notarial seal  
14 this 21st day of May, 2021.

15   
16

17 SUSAN A. KAMBOURIS

Notary Public

18 My Commission Expires:

19 May 17, 2021  
20  
21

# **EXHIBIT 23**



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

March 5, 2018

Sandra Bolin, Director  
Arundel Christian School  
1321 Mercedes Dr.  
Hanover, MD 21076

Dear Ms. Bolin,

Thank you for participating in the BOOST Scholarship Program for 2017-2018. As a participant, your school signed an assurance regarding non-discrimination in admissions. As a follow-up to the assurance signed by all participating schools, the BOOST Advisory Board and the Maryland State Department of Education (MSDE) recently requested copies of each school's Student Handbook.

MSDE staff have reviewed your school's handbook. It contains a statement that has raised some questions as it relates to the assurance your school signed stating that the school will not discriminate in admissions on the basis of sexual orientation. The statement in your handbook says the following:

#### GUIDELINES FOR ACCEPTING STUDENTS

**All new students are enrolled for a 90-day probationary period.** The administration may extend the period up to six (6) months.

- Students above the sixth grade who do not personally want to attend ACS are generally not accepted.
- ACS is not a "reform" school nor does it specifically address "problem" children, rather it is a Christian school compassionately encouraging children to excellence.
- Students are not denied or offered entrance based on IQ, achievements, or ability. Children with a history of "under-achieving" are welcome unless the administration determines they may pose a social or moral liability to other students.
- Each student history is individually reviewed. Students who currently engage in any of the following will not be admitted:
  1. Illegal activity;
  2. Behavior leading to arrest, conviction, or incarceration;
  3. Use of alcohol or illegal drugs or other use of substances to get "high";
  4. Smoking or using tobacco or nicotine products;
  5. Conceiving or fathering a child out of wedlock;
  6. Engaging in sexual activity inconsistent with Scriptural teaching;
  7. Abusive behavior harmful to self or others;
  8. Blatant or chronic rebellion, including refusal to respect authority or adhere to rules (including dismissal or expulsion from another educational institution);
  9. Running away from home.

Applicants with a past history of above-mentioned behaviors are usually denied admission. However, the administration desires to model love and forgiveness and support for students with past struggles after repentance. In appropriate cases, ACS may admit a student with a history of the behaviors identified if in the administration's sole discretion:

**Exhibit**  
59

BOOST Scholarship Program, Handbook Review

March 5, 2018

Page 2

Here is the non-discrimination requirement in the BOOST law for 2017-2018 (House Bill 150 of the 2017 legislative session, page 135-136):

To be eligible to participate in the BOOST Program, a nonpublic school must ... (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.

Before the BOOST Advisory Board can authorize payment of the BOOST scholarships for students in your school, the Advisory Board asks that you explain how your handbook statement reconciles with the assurance the school signed regarding non-discrimination in admissions. A brief written response by March 14, 2018 will be helpful.

If you have questions, you can reach me at (410) 767-8863 or [monica.kearns@maryland.gov](mailto:monica.kearns@maryland.gov). Thank you for your cooperation.

Sincerely,



Monica Kearns

Assistant State Superintendent for Business Services



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

March 5, 2018

Clair Dant, Principal  
Bethel Christian Academy  
8455 Savage-Guilford Rd.  
Savage, MD 20763

Dear Ms. Dant,

Thank you for participating in the BOOST Scholarship Program for 2017-2018. As a participant, your school signed an assurance regarding non-discrimination in admissions. As a follow-up to the assurance signed by all participating schools, the BOOST Advisory Board and the Maryland State Department of Education (MSDE) recently requested copies of each school's Student Handbook.

MSDE staff have reviewed your school's handbook. It contains a statement that has raised some questions as it relates to the assurance your school signed stating that the school will not discriminate in admissions on the basis of sexual orientation. The statement in your handbook says the following:

#### **Statement of Nondiscrimination**

Bethel Christian Academy admits students of any race, color, and national or ethnic origin to all the rights, privileges, programs, and activities generally accorded or made available to students at the school. It does not discriminate on the basis of race, color, national and ethnic origin in administration of its educational policies, admissions policies, scholarship and loan programs, and athletic and other school-administered programs.

It should be noted, however, that Bethel Christian Academy supports the biblical view of marriage defined as a covenant between one man and one woman, and that God immutably bestows gender upon each person at birth as male or female to reflect His image. (Gen. 1:27, Gen. 2:23-24) Therefore, faculty, staff, and student conduct is expected to align with this view. Faculty, staff, and students are required to identify with, dress in accordance with, and use the facilities associated with their biological gender.

Here is the non-discrimination requirement in the BOOST law for 2017-2018 (House Bill 150 of the 2017 legislative session, page 135-136):

To be eligible to participate in the BOOST Program, a nonpublic school must ... (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



BOOST Scholarship Program, Handbook Review

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Page 2

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.

Before the BOOST Advisory Board can authorize payment of the BOOST scholarships for students in your school, the Advisory Board asks that you explain how your handbook statement reconciles with the assurance the school signed regarding non-discrimination in admissions. A brief written response by March 14, 2018 will be helpful.

If you have questions, you can reach me at (410) 767-8863 or [monica.kearns@maryland.gov](mailto:monica.kearns@maryland.gov). Thank you for your cooperation.

Sincerely,

A handwritten signature in black ink, appearing to read "Monica Kearns", with a stylized flourish at the end.

Monica Kearns

Assistant State Superintendent for Business Services



Karen B. Salmon, Ph.D.  
State Superintendent of Schools

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March 5, 2018

Pastor McBride, and  
Joevona Johnson, Director of Education  
Cathedral Christian Academy  
4100 Frankford Ave.  
Baltimore, MD 21206

Dear Pastor McBride and Ms. Johnson,

Thank you for participating in the BOOST Scholarship Program for 2017-2018. As a participant, your school signed an assurance regarding non-discrimination in admissions. As a follow-up to the assurance signed by all participating schools, the BOOST Advisory Board and the Maryland State Department of Education (MSDE) recently requested copies of each school's Student Handbook.

MSDE staff have reviewed your school's handbook. It contains a statement that has raised some questions as it relates to the assurance your school signed stating that the school will not discriminate in admissions on the basis of sexual orientation. The statement in your handbook says the following:

### **Requirements**

Cathedral Christian Academy, desiring to maintain its high standard of academic excellence and Christ-centered environment, has established the following requirements for admissions:

A. PARENTAL SUPPORT: Our primary purpose at Cathedral Christian Academy is to build lifetime achievers by instilling an idealistic spiritual and educational foundation in all aspects of the lives of our students.

Inasmuch, we will uphold the school's policies, procedures, and all standards set forth by the school by becoming active participants in the educational and non-educational arena as it pertains to C.C.A.. We will provide our child with the educational and spiritual support he/she requires by exemplifying Christian parenting, and the sharing of Scripture and prayer with him/her, and support/encourage the school's efforts to teach and cultivate Biblical values and lifestyles. We also agree to the school's discipline policies and codes, harassment policies, uniform policies and procedures, student pick-up and late pick-up policies, and homework/grading policies as outlined in the parent/student handbook. We understand that any violations against the rules and regulations may result in immediate dismissal from C.C.A. We will abide by the school's terms as defined and applied by

*Parent/Student Handbook*

6

C.C.A.'s faculty and administration. We accept as true that "PARENTAL INVOLVEMENT EQUALS STUDENT SUCCESS."

B. Students must desire to attend Cathedral Christian Academy and also willingly submit to the school's authority, policies, and practices.

BOOST Scholarship Program, Handbook Review

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Here is the non-discrimination requirement in the BOOST law for 2017-2018 (House Bill 150 of the 2017 legislative session, page 135-136):

To be eligible to participate in the BOOST Program, a nonpublic school must ... (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.

Before the BOOST Advisory Board can authorize payment of the BOOST scholarships for students in your school, the Advisory Board asks that you explain how your handbook statement reconciles with the assurance the school signed regarding non-discrimination in admissions. A brief written response by March 14, 2018 will be helpful.

If you have questions, you can reach me at (410) 767-8863 or [monica.kearns@maryland.gov](mailto:monica.kearns@maryland.gov). Thank you for your cooperation.

Sincerely,



Monica Kearns

Assistant State Superintendent for Business Services



Karen B. Salmon, Ph.D.  
State Superintendent of Schools

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March 5, 2018

Dallas Bumgarner, Administrator  
Elavaton Christian Academy  
8422 Elvaton Rd.  
Millersville, MD 21108

Dear Pastor Bumgarner,

Thank you for participating in the BOOST Scholarship Program for 2017-2018. As a participant, your school signed an assurance regarding non-discrimination in admissions. As a follow-up to the assurance signed by all participating schools, the BOOST Advisory Board and the Maryland State Department of Education (MSDE) recently requested copies of each school's Student Handbook.

MSDE staff have reviewed your school's handbook. It contains a statement that has raised some questions as it relates to the assurance your school signed stating that the school will not discriminate in admissions on the basis of sexual orientation. The statement in your handbook says the following:

**ELVATON CHRISTIAN ACADEMY  
PARENTS'/GUARDIANS' STATEMENT OF SUPPORT**

**NOTE:** Please read the following statements carefully. If there is any statement you cannot personally support, please initial it and discuss it with us in a personal interview. Generally, your honest inability to commit to any of these support measures would not necessarily prohibit acceptance into Elvaton Christian Academy, however, we want you to know from the start the foundational premises of Elvaton Christian Academy, our parental expectations, and how important it is to have your personal support.

1. We have received and read the student handbook.
2. We are willing to have our children educated in accordance with the "Statement of Doctrinal Beliefs" of the school.
3. We understand that ECA encourages us to regularly and earnestly pray for Elvaton Christian Academy.
4. We understand that ECA strongly encourages us to worship the Lord regularly at a Bible-believing church (as an example to our children).
5. We will fully cooperate in the educational activities of Elvaton Christian Academy by doing our best to make Christian education effective in the lives of our children.
6. We will require our children to support the spiritual activities of the school (Chapel, Bible classes, Scripture memory, etc.).
7. We will pay all of our financial obligations to ECA on or before the date due. If we are ever unable to do so, we will notify the Administrator, giving a reasonable explanation for the delay and stating when payment will be made.
8. We understand that all registration fees are non-refundable and we must give one-month notice before withdrawing from school.
9. We will be faithful to fully attempt to attend all parent functions at ECA.
10. We will volunteer for duties and responsibilities for ECA as opportunities arise and God provides the time and strength.
11. The school reserves the right to place our children at the appropriate grade level and designate the appropriate teacher(s).

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12. The school has full discretion in the discipline of our children in accordance with the "dress code policy" and the "discipline policy" as published.
13. The school reserves the right to dismiss any student when either the parents/guardians or the student does not cooperate with the policies of the school.
14. We will be respectful to teachers, staff and others in the school. We understand if we become disrespectful it may result in the suspension or expulsion of my student or students.
15. If we experience difficulties with students other than our own, we will bring the issue to the administration for discussion and resolution. We will not discuss the issue with the student/students involved.
16. If we become dissatisfied with ECA in any way we will strive to resolve the matter with the person(s) involved as privately and lovingly as possible, rather than spreading criticism and negativism. (Matthew 18:15-17; 5:23-24). If we cannot support the school, we recognize it is our responsibility to leave Elvaton Christian Academy and seek a school in alignment with our personal convictions.
17. We will seek to support and advance ECA in every area possible - spiritually, academically, physically, and financially.

### STATEMENT OF DOCTRINAL BELIEFS

Please read over the following carefully. Each faculty member has signed this statement affirming his or her adherence to these doctrinal positions.

1. **THE SCRIPTURES:** We believe that the entire Bible, all 66 books of the combined Old and New Testaments are verbally inspired by God and are inerrant in the original writings. Through the providence of God, the Word of God has been protected and preserved, and is the only infallible and authoritative rule of faith and practice (2Tim. 3:16-17; 2 Peter 1:20-21).
2. **GOD:** We believe that there is only one true, living, sovereign, holy, and eternally existent God. He exists in three co-equal persons - Father, Son, and Holy Spirit - each being a distinct person and with a distinct function, but all of one essence and all possessing the same nature, perfection, and attributes. The triune God is the creator and sustainer of all things, the source of all truth, and is worthy of worship, confidence, and obedience (Deut. 6:4-5; Gen. 1:31).
3. **JESUS CHRIST:** We believe that Jesus Christ is God. He was conceived by the Holy Spirit, born of a virgin, lived a sinless life, performed many miracles, shed His blood on the cross to pay the debt for our sins, was buried, bodily resurrected, ascended to the right hand of the Father, and will return literally, visibly, and personally in glory and power (John 1:1-3, 14; Matt. 1:18-25; Phil. 2:5-9; Col. 1:15; 1Cor. 15:1-8; Acts 1:11).
4. **HOLY SPIRIT:** We believe that the Holy Spirit is God, co-equal and co-existent with the Father and the Son. He is the chief convicter of sin, the chief agent of regeneration and sanctification. The Holy Spirit lives within every believer and empowers every believer to live a godly life (John 14:16-19; 16:7-15; 1 Cor. 6:19-29; Romans 8:9,11; Titus 3:5).
5. **MANKIND:** We believe that in the beginning God created mankind in His image, and is not in any sense the product of evolution. Mankind was originally created with the ability to live perfectly for God's glory (Genesis 1:27, 31).
6. **SIN:** We believe that Adam, the first man, sinned by disobedience. This act resulted in the fall of all mankind; therefore, all people have sinned and lost their ability to live for the glory of God. Every person's sin incurs both physical and spiritual death until there is forgiveness and salvation by the grace of God (Gen. 3:1-1-24; Romans 3:10-23; 5:12-21; 6:23).
7. **SALVATION:** We believe the salvation of lost and sinful people is a free gift of God's grace apart from human works, based solely upon Christ's vicarious and atoning death, effected by the regenerating work of the Holy Spirit, and received only through faith in the person and finished work of Jesus Christ on the cross and His resurrection from death (Eph. 2:8-10; 2 Cor. 5:21).
8. **THE CHURCH:** We believe that the church is the body of Christ and the family of God. It is made up of saved and baptized believers, who regularly join together for worship, fellowship, and ministry (Matt. 16:18; 1 Cor. 12:12-14; Heb. 10:25).
9. **EVANGELISM:** We believe that it is the responsibility and privilege of every Christian to proclaim the good news of Jesus Christ and to seek to make growing disciples (Matt. 28:18-20; Acts 1:8).
10. **THE HOME:** In addition to these important beliefs, we also believe that God has given the parents and the home the responsibility to bring up their children in the nurture and admonition of the Lord (Eph. 6:4; Prov. 22:6). We believe that a consistent and whole education will occur when home, church, and school work closely together and are in agreement on the basic concepts of life.

**NOTE:** Thank you for receiving and reading these basic beliefs. Even if some (or even all) of these are not your personal beliefs, we feel it is very important for you to know what our school believes and the precepts under which your child will be taught.

BOOST Scholarship Program, Handbook Review

March 5, 2018

Page 3

Here is the non-discrimination requirement in the BOOST law for 2017-2018 (House Bill 150 of the 2017 legislative session, page 135-136):

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Before the BOOST Advisory Board can authorize payment of the BOOST scholarships for students in your school, the Advisory Board asks that you explain how your handbook statement reconciles with the assurance the school signed regarding non-discrimination in admissions. A brief written response by March 14, 2018 will be helpful.

If you have questions, you can reach me at (410) 767-8863 or [monica.kearns@maryland.gov](mailto:monica.kearns@maryland.gov). Thank you for your cooperation.

Sincerely,



Monica Kearns

Assistant State Superintendent for Business Services



Karen B. Salmon, Ph.D.  
State Superintendent of Schools

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March 5, 2018

Lorne Wenzel, Director  
Grace Christian Academy of Maryland  
13000 Zekiah Dr.  
Waldorf, MD 206001

Dear Dr. Wenzel:

Thank you for participating in the BOOST Scholarship Program for 2017-2018. As a participant, your school signed an assurance regarding non-discrimination in admissions. As a follow-up to the assurance signed by all participating schools, the BOOST Advisory Board and the Maryland State Department of Education (MSDE) recently requested copies of each school's Student Handbook.

MSDE staff have reviewed your school's handbook. It contains a statement that has raised some questions as it relates to the assurance your school signed stating that the school will not discriminate in admissions on the basis of sexual orientation. You recently received notice from me in the context of the Nonpublic Textbook Program that our legal counsel said that your handbook does not conflict with the non-discrimination requirements. However, in the meantime, the BOOST Advisory Board has asked for additional information from some schools.

The statement in your handbook says the following:

- We believe that God wonderfully and immutably creates each person as a genetic male or genetic female. These two distinct, complementary genders together reflect the image and nature of God (Gen. 1:26-27). Rejection of one's biological sex is a rejection of the image of God within that person.
- We believe that the term "marriage" has only one meaning: the uniting of one genetic male and one genetic female in a single, exclusive union, as delineated in Scripture (Gen. 2:18-25). We believe that God intends sexual intimacy to occur only between a man and a woman who are

7

married to each other (1 Cor. 6:18; 7:2-5; Heb. 13:4) and that sexual intimacy outside of marriage (including adultery, fornication, rape, homosexual behavior, bisexual conduct, bestiality, incest, and use of pornography) is sin.

BOOST Scholarship Program, Handbook Review

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## ADMISSION PROCEDURES

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### \*Requirements for Admission\*

The following requirements have been established for admission to Grace Christian Academy:

1. Completion of application with signatures and appropriate fees.
2. Satisfactory scholastic and behavioral records from previous school.
3. Satisfactory performance on a formal entrance test.
4. Health records that meet State requirements.
  - A. **Medical Forms.** Maryland State law requires that the *Health Inventory Form* signed by the parent and the child's physician be on file for all students.
  - B. **Immunization Record.** Maryland State law requires students entering any school within the state to have the following immunizations: poliomyelitis, small pox, diphtheria, rubella, pertussis and tetanus.
5. Read the Student/Parent Manual and agree to support the guidelines presented.
6. Completion of parent interview with Academy principal.
7. Completion of Student Questionnaire (secondary).
8. Complete registration with FACTS tuition management within 10 days of interview and acceptance.
9. Complete the Parental Statement of Support.

Here is the non-discrimination requirement in the BOOST law for 2017-2018 (House Bill 150 of the 2017 legislative session, page 135-136):

To be eligible to participate in the BOOST Program, a nonpublic school must ... (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.

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If you have questions, you can reach me at (410) 767-8863 or [monica.kearns@maryland.gov](mailto:monica.kearns@maryland.gov). Thank you for your cooperation.

Sincerely,

A handwritten signature in black ink, appearing to read "Monica Kearns", with a stylized flourish at the end.

Monica Kearns

Assistant State Superintendent for Business Services



Karen B. Salmon, Ph.D.  
State Superintendent of Schools

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March 5, 2018

Roderick Kerbs II, Principal  
Mt. Aetna Adventist School  
10207 Crystal Falls Dr.  
Hagerstown, MD 21740

Dear Mr. Kerbs,

Thank you for participating in the BOOST Scholarship Program for 2017-2018. As a participant, your school signed an assurance regarding non-discrimination in admissions. As a follow-up to the assurance signed by all participating schools, the BOOST Advisory Board and the Maryland State Department of Education (MSDE) recently requested copies of each school's Student Handbook.

MSDE staff have reviewed your school's handbook. It contains a statement that has raised some questions as it relates to the assurance your school signed stating that the school will not discriminate in admissions on the basis of sexual orientation. The statement in your handbook says the following:

#### **Responsibilities of Students**

1. Each student is expected to be reverent at all religious services. It is expected that the student will obey all school rules and regulations and render prompt and cheerful obedience to the directions of the teachers.
2. Experience has shown that there are some behaviors that cannot be tolerated in Seventh-day Adventist schools. Since this school does not knowingly admit a student who practices these behaviors, the first offense on any of the following fundamental points may result in suspension and/or dismissal:
  - a. Behaviors or acts that undermine the religious ideals or faith upheld by the school family.
  - b. Swearing or using indecent language, indulging in vulgar or suggestive conduct, possessing or displaying obscene pictures or articles.
  - c. Distribution, possession and/or use of tobacco, alcohol, or drugs.
  - d. Gambling or betting.
  - e. Dishonesty, including theft, cheating and lying.
  - f. Improper sexual conduct and/or sexual harassment.
  - g. Discussion of inappropriate topics found in theaters, videos, books, TV programs, etc., is not permitted on the school grounds.
  - h. Aggressive behavior that leads to the physical harm of any other student.
3. Respect all school and personal property. The student(s), as well as the parent(s) or guardian(s), will be held accountable for any damage done by the student to school property.
4. Respect for MAAS teachers, staff and other students is mandatory.

Here is the non-discrimination requirement in the BOOST law for 2017-2018 (House Bill 150 of the 2017 legislative session, page 135-136):

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To be eligible to participate in the BOOST Program, a nonpublic school must ... (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.

Before the BOOST Advisory Board can authorize payment of the BOOST scholarships for students in your school, the Advisory Board asks that you explain how your handbook statement reconciles with the assurance the school signed regarding non-discrimination in admissions. A brief written response by March 14, 2018 will be helpful.

If you have questions, you can reach me at (410) 767-8863 or [monica.kearns@maryland.gov](mailto:monica.kearns@maryland.gov). Thank you for your cooperation.

Sincerely,

A handwritten signature in black ink, appearing to read "Monica Kearns", with a stylized flourish at the end.

Monica Kearns  
Assistant State Superintendent for Business Services



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

March 5, 2018

Zach Hooker, Principal  
St. Joseph's Regional Catholic School  
11011 Montgomery Rd.  
Beltsville, MD 20705

Dear Mr. Hooker,

Thank you for participating in the BOOST Scholarship Program for 2017-2018. As a participant, your school signed an assurance regarding non-discrimination in admissions. As a follow-up to the assurance signed by all participating schools, the BOOST Advisory Board and the Maryland State Department of Education (MSDE) recently requested copies of each school's Student Handbook.

MSDE staff have reviewed your school's handbook. It contains a statement that has raised some questions as it relates to the assurance your school signed stating that the school will not discriminate in admissions on the basis of sexual orientation. The statement in your handbook says the following:

### ADMISSIONS INFORMATION

#### **Nondiscriminatory Policy**

St. Joseph's Regional Catholic School admits students of any religion, race, color, and national or ethnic origin to all the rights, privileges, programs, and activities accorded or made available to students of the school. It does not discriminate on the basis of religion, race, color, national or ethnic origin in the administration of its educational policies, admissions policies, or athletic and other school-administered programs. **Students seeking admission to Catholic schools for reasons that violate Christian principles will not be admitted.**

3

Here is the non-discrimination requirement in the BOOST law for 2017-2018 (House Bill 150 of the 2017 legislative session, page 135-136):

To be eligible to participate in the BOOST Program, a nonpublic school must ... (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.

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Before the BOOST Advisory Board can authorize payment of the BOOST scholarships for students in your school, the Advisory Board asks that you explain how your handbook statement reconciles with the assurance the school signed regarding non-discrimination in admissions. A brief written response by March 14, 2018 will be helpful.

If you have questions, you can reach me at (410) 767-8863 or [monica.kearns@maryland.gov](mailto:monica.kearns@maryland.gov). Thank you for your cooperation.

Sincerely,

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Assistant State Superintendent for Business Services



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March 5, 2018

Terry Weiss, Principal  
St. Louis School  
12500 Clarksville Pike  
Clarksville, MD 21029

Dear Mrs. Weiss,

Thank you for participating in the BOOST Scholarship Program for 2017-2018. As a participant, your school signed an assurance regarding non-discrimination in admissions. As a follow-up to the assurance signed by all participating schools, the BOOST Advisory Board and the Maryland State Department of Education (MSDE) recently requested copies of each school's Student Handbook.

MSDE staff have reviewed your school's handbook. It contains a statement that has raised some questions as it relates to the assurance your school signed stating that the school will not discriminate in admissions on the basis of sexual orientation. The statement in your handbook says the following:

### **Administration**

#### **Admission Policy**

St. Louis School adheres to the Archdiocesan policy of admission that students who desire an educational experience founded on the Christian philosophy of education and who fulfill the age, health, and academic requirements as stated subsequently, are eligible for admission to Catholic schools in the Archdiocese of Baltimore without discrimination. All applications, enrollment documents, and requirements are available online through SchoolAdmin.

Further, it is the policy of St. Louis School not to discriminate on the basis of religion, race, color, and/or national or ethnic origin in the administration of its educational policies and admission policies.

It is the policy of St. Louis School not to discriminate against any applicant because of gender in any educational program and activity. Additionally, students seeking admission to the Catholic schools as a refuge or haven or for reasons that violate the Christian principles upon which the schools are founded are not to be admitted.

Here is the non-discrimination requirement in the BOOST law for 2017-2018 (House Bill 150 of the 2017 legislative session, page 135-136):

To be eligible to participate in the BOOST Program, a nonpublic school must ... (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

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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.

Before the BOOST Advisory Board can authorize payment of the BOOST scholarships for students in your school, the Advisory Board asks that you explain how your handbook statement reconciles with the assurance the school signed regarding non-discrimination in admissions. A brief written response by March 14, 2018 will be helpful.

If you have questions, you can reach me at (410) 767-8863 or [monica.kearns@maryland.gov](mailto:monica.kearns@maryland.gov). Thank you for your cooperation.

Sincerely,

A handwritten signature in black ink, appearing to read "Monica Kearns", with a stylized flourish at the end.

Monica Kearns

Assistant State Superintendent for Business Services



200 West Baltimore Street • Baltimore, MD 21201 • 410-767-0100 • 410-333-6442 TTY/TDD • marylandpublicschools.org

March 5, 2018

Madeleine Hobik, Principal  
St. Margaret School  
205 Hickory Ave.  
Bel Air, MD 21014

Dear Ms. Hobik,

Thank you for participating in the BOOST Scholarship Program for 2017-2018. As a participant, your school signed an assurance regarding non-discrimination in admissions. As a follow-up to the assurance signed by all participating schools, the BOOST Advisory Board and the Maryland State Department of Education (MSDE) recently requested copies of each school's Student Handbook.

MSDE staff have reviewed your school's handbook. It contains a statement that has raised some questions as it relates to the assurance your school signed stating that the school will not discriminate in admissions on the basis of sexual orientation. The statement in your handbook says the following:

#### ADMISSIONS

The Philosophy of the Catholic Schools in the Archdiocese of Baltimore is based on the Christian Social Principles of the Gospel Message-to love and respect the rights of all people. Children of all faiths are admitted with the understanding that they participate in the religion program. The school reserves the right to deny attendance to anyone whose behavior is contrary to the teachings and ideals of the school or whose behavior is contrary to the teachings and ideals of the school or whose behavior or attitude is disruptive to the functioning of the student body.

Admission to Saint Margaret School is based on the following priority of acceptance provided that there are OPENINGS in the level requested: (1) children of staff members, (2) siblings of current students, (3) children of alumni who are parishioners (before lottery) and (4) children of parishioners, (5) children of parishioners of neighboring parishes, and (6) others. Siblings who are on a Waiting List during the previous school year will be placed on the Waiting List the following year – in the order in which they are on the current list.

21

Here is the non-discrimination requirement in the BOOST law for 2017-2018 (House Bill 150 of the 2017 legislative session, page 135-136):

To be eligible to participate in the BOOST Program, a nonpublic school must ... (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



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Before the BOOST Advisory Board can authorize payment of the BOOST scholarships for students in your school, the Advisory Board asks that you explain how your handbook statement reconciles with the assurance the school signed regarding non-discrimination in admissions. A brief written response by March 14, 2018 will be helpful.

If you have questions, you can reach me at (410) 767-8863 or [monica.kearns@maryland.gov](mailto:monica.kearns@maryland.gov). Thank you for your cooperation.

Sincerely,

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Monica Kearns

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Karen B. Salmon, Ph.D.  
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March 5, 2018

Bonita Bailey, Senior Dean  
Woodstream Christian Academy  
9800 Lottsford Rd.  
Mitchellville, MD 20721

Dear Dr. Bailey,

Thank you for participating in the BOOST Scholarship Program for 2017-2018. As a participant, your school signed an assurance regarding non-discrimination in admissions. As a follow-up to the assurance signed by all participating schools, the BOOST Advisory Board and the Maryland State Department of Education (MSDE) recently requested copies of each school's Student Handbook.

MSDE staff have reviewed your school's handbook. It contains a statement that has raised some questions as it relates to the assurance your school signed stating that the school will not discriminate in admissions on the basis of sexual orientation. The statement in your handbook says the following:

### *DISCIPLINE PROTOCOLS*

To ensure a safe learning environment for all students, the Academy will utilize demerits as its formal behavioral management system. Students will receive demerits based upon the severity of the infraction. When demerits are issued, parents will be informed electronically via RenWeb.

1. The use, distribution, or other handling of alcohol, tobacco, e-cigs, vapor or illicit substances is prohibited on Academy grounds and at Academy-sponsored events, including field trips. Families found in violation of this policy will be immediately expelled.
2. Evidence of deviant behavior of a sexual nature (e.g., promiscuity, pregnancy, and homosexuality) will be grounds for expulsion. Issues of a sexual nature will be dealt with using the Bible as a guide while maintaining confidentiality.
3. Students are required to dress appropriately and modestly according to the uniform policy for school and all school-related activities.
4. Running in the hallways or on the sidewalk is dangerous and is not permitted.
5. Students may enter/leave the classroom once permission to enter/leave is given by the tutor.

Here is the non-discrimination requirement in the BOOST law for 2017-2018 (House Bill 150 of the 2017 legislative session, page 135-136):

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To be eligible to participate in the BOOST Program, a nonpublic school must ... (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.

Before the BOOST Advisory Board can authorize payment of the BOOST scholarships for students in your school, the Advisory Board asks that you explain how your handbook statement reconciles with the assurance the school signed regarding non-discrimination in admissions. A brief written response by March 14, 2018 will be helpful.

If you have questions, you can reach me at (410) 767-8863 or [monica.kearns@maryland.gov](mailto:monica.kearns@maryland.gov). Thank you for your cooperation.

Sincerely,

A handwritten signature in black ink, appearing to read "Monica Kearns", with a stylized flourish at the end.

Monica Kearns

Assistant State Superintendent for Business Services

# **EXHIBIT 24**

**BOOST Schools with Handbooks that Do Not Comply with the BOOST Non-discrimination Requirements**

As of March 7, 2018

|   | <b>School Name</b>  | <b>Number of Students</b> | <b>Sum of Awards</b> |
|---|---|---------------------------|----------------------|
| 1 | ARNOLD CHRISTIAN ACADEMY - ARNOLD                               | 1                         | \$ 1,400             |
| 2 | ATHOLTON ADVENTIST ACADEMY - COLUMBIA                           | 4                         | \$ 8,600             |
| 3 | CELEBRATION CHRISTIAN ACADEMY - COLUMBIA                        | 2                         | \$ 7,800             |
| 4 | FREDERICK ADVENTIST ACADEMY - FREDERICK                         | 7                         | \$ 18,800            |
| 5 | HIGHLAND VIEW ACADEMY - HAGERSTOWN                              | 5                         | \$ 16,000            |
| 6 | SPENCERVILLE ADVENTIST ACADEMY - SPENCERVILLE                   | 6                         | \$ 19,400            |
| 7 | TAKOMA ACADEMY - TAKOMA PARK                                    | 9                         | \$ 14,800            |
|   | <b>Subtotal - Handbooks reviewed in Dec. 2017 and Jan. 2018</b> | <b>34</b>                 | <b>\$ 86,800</b>     |
| 8 | GRACE ACADEMY - HAGERSTOWN                                      | 1                         | \$ 1,400             |
| 9 | TRINITY LUTHERAN SCHOOL - JOPPA                                 | 19                        | \$ 73,900            |
|   | <b>Subtotal - Handbooks reviewed in Oct. and Nov. 2017</b>      | <b>20</b>                 | <b>\$ 75,300</b>     |
|   | <b>Grand Total</b>  | <b>54</b>                 | <b>\$ 162,100</b>    |

**BOOST Schools in Handbook Category 3 of the Legal Advice Memo on Non-discrimination Requirements**

As of April 2018

|    | <b>School Name</b>                            | <b>Number of Students</b> | <b>Sum of Awards</b> | <b>Notes</b>              |
|----|---|---------------------------|----------------------|---------------------------|
| 1  | Arundel Christian School – Hanover            | 0                         | \$ -                 | Found to be in compliance |
| 2  | Bethel Christian Academy – Savage             | 18                        | \$ 55,800            | Still under review        |
| 3  | Broadfording Christian Academy - Hagerstown   | 1                         | \$ 4,400             | Still under review        |
| 4  | Cathedral Christian Academy – Baltimore       | 61                        | \$ 235,200           | Found to be in compliance |
| 5  | Elvaton Christian Academy – Millersville      | 3                         | \$ 4,200             | Found to be in compliance |
| 6  | Grace Christian Academy of Maryland – Waldorf | 11                        | \$ 42,400            | Found to be in compliance |
| 7  | Mt. Aetna Adventist School – Hagerstown       | 7                         | \$ 16,400            | Found to be in compliance |
| 8  | St. Joseph’s School – Beltsville              | 15                        | \$ 25,600            | Found to be in compliance |
| 9  | St. Louis School – Clarksville                | 3                         | \$ 13,200            | Found to be in compliance |
| 10 | St. Margaret School – Bel Air                 | 5                         | \$ 8,400             | Found to be in compliance |
| 11 | Woodstream Christian Academy – Mitchellville  | 10                        | \$ 32,000            | Still under review        |
|    | <b>Total</b>                                  | <b>134</b>                | <b>\$ 437,600</b>    |                           |

**Exhibit**  
34

# **EXHIBIT 25**

**Handbook Language of Schools Disqualified From BOOST Program**

**1. Trinity Lutheran Christian School**

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.

**Revised:**

Trinity Lutheran Christian School & Early Learning Center is a religious institution providing an education in a Christian environment. We hold to the Biblical standard, believing the Biblical role is to work in conjunction with students and their families to be Christ-like.

**2. Grace Academy**

Grace Academy's Biblical role is to work in conjunction with the home to mold students to be Christ-like. On occasion, the atmosphere or conduct within a particular home may be counter or in opposition to the Biblical lifestyle the school teaches. If the moral principles of the applicant are in conflict or do not align with those of the Grace Academy Statement of faith, Grace Academy reserves the right to refuse admission of an applicant or discontinue enrollment of a student as pursuant to Title IX of the Civil Rights Act: Section 714a.

This includes, but is not necessarily limited to:

Sexual immorality, homosexual orientation, or inability to support the moral principles of the school. In such cases, the school reserves the right, within its sole discretion, to refuse admission of an applicant or to discontinue enrollment of a student.

**Revised:**

Grace Academy's Biblical role is to work in conjunction with the home to mold students to be Christ-like. On occasion, the atmosphere or conduct within a particular home may be counter or in opposition to the Biblical lifestyle the school teaches. If the moral



principles of the applicant are in conflict or do not align with those of the Grace Academy Statement of Faith, Grace Academy reserves the right to refuse admission of an applicant or discontinue enrollment of a student.

This includes, but is not necessarily limited to:

Sexual immorality, or inability to support and follow the moral principles of the school. In such cases, the school reserves the right, within its sole discretion, to refuse admission of an applicant or to discontinue enrollment of a student.

### **3. Highland View Academy**

Highland View Academy (HVA) admits students of any race, color, national and ethnic origin to all the rights, privileges, programs and activities accorded or made available to HVA students. We do not discriminate on the basis of sex, race, color, national or ethnic origin in the administration of our educational policies and procedures, scholarship awards, athletic or other school-administered programs. We do, however, reserve the right to deny admission to any individual who cannot benefit from enrollment based on past academic achievement, disqualifying learning difference or physical limitations, or whose personal or family lifestyle is not in harmony with the stated philosophy of Highland View Academy.

Furthermore, Highland View Academy **does not admit or retain** individuals who engage in sexual misconduct, **homosexual conduct**, or the encouragement or advocacy of any form of sexual behavior that would undermine the Christian identity or faith mission of Highland View Academy and the Seventh-day Adventist Church.

#### **Revised:**

Furthermore, Highland View Academy does not admit or retain individuals who engage in sexual misconduct, or the encouragement or advocacy of any form of sexual behavior that would undermine the Christian identity or faith mission of Highland View Academy and the Seventh-day Adventist Church.

### **4. Spencerville Adventist Academy**

Spencerville Adventist Academy **does not admit or retain** individuals who engage in sexual misconduct, which includes non-marital sexual conduct, **homosexual conduct**, or the encouragement or advocacy of any form of sexual behavior that would undermine the Christian identity or faith mission of Spencerville Adventist Academy and the Seventh-day Adventist Church.

Spencerville Adventist Academy will respond to homosexual behavior rather than to feelings or attractions and welcomes as members for the student body, all whose behaviors meet the standards of the Seventh-day Adventist church. Students can remain in good standing if they conduct their lives in a manner that is consistent with teachings



of the church relating to sexual orientation and behavior. A student stated same-gender attraction will not be considered a violation of school policy, however, the school does require all in the student community to abstain from sexual conduct/activity. Homosexual behavior is inappropriate and violates the teachings of our faith, and includes not only casual relations between members of the same sex, but all forms of physical intimacy that give expression to homosexual feelings.

#### **5. Takoma Academy**

Takoma Academy, as a Christ-centered learning community, welcomes all those whose behavior and lifestyle are consistent with the beliefs of the Seventh-day Adventist Church. Regarding Human Sexuality, students can remain in good standing providing they conduct their lives in a manner that is consistent with the teachings of the Seventh-day Adventist church on sexual orientation and behavior. Takoma Academy **does not admit or retain** students who engage in sexual misconduct, which includes but is not necessarily limited to, non-marital sexual conduct or **homosexual conduct**; or those students who practice or appear to advocate for any form of sexual behavior or orientation that in the judgment of the school's administration is inconsistent with the Christian identity, teachings, beliefs, or faith mission of Takoma Academy and the Seventh-day Adventist church.

**Revised:**

#### **6. Atholton Adventist Academy**

Inappropriate sexual activity—students can remain in good standing providing they conduct their lives in a manner that is consistent with the teachings of the Church on sexual orientation and behavior. Atholton Adventist Academy **does not admit or retain** students who engage in sexual misconduct, which includes but is not necessarily limited to, non-marital sexual conduct or **homosexual conduct**, or those students who practice or appear to advocate for any form of sexual behavior or orientation that in the judgment of the school's administration is inconsistent with the Christian identity, teachings, beliefs, or faith mission of Atholton Adventist Academy and the Seventh-day Adventist Church.

#### **7. Frederick Adventist Academy**

Frederick Adventist Academy is a Seventh-day Adventist Christian school. Because of our beliefs, we prohibit students from engaging in any sexual conduct/activity, **including same sex relationships**. We have chosen to define sexual conduct/activity to include anything that advocates for, promotes or supports the **homosexual lifestyle** in any forum, including in social media. Sexual conduct/activity also includes any consensual sexual behavior that occurs before marriage, such as sexual intercourse, public displays of affection, intimate contact, **homosexuality or behavior that exhibits a same sex relationship**, pornography, and actions (for example, spending the night with someone of the opposite sex), that may lead to situations of temptation, regret and immoral conduct.

Since FAA **does not knowingly admit** a student who practices the following behaviors, the first offense on any of the following fundamental points **makes the student liable for suspension or dismissal ... improper sexual conduct** including sexting on phone or any social network.

#### **8. Arnold Christian Academy**

Sexual acts outside the bounds of marriage, including fornication, adultery, **homosexuality**, polygamy, and any other sexually immoral practice, are prohibited by God and are unprofitable for man. (1 Corinthians 6:9-11 Thessalonians 4:1-8, Hebrews 13:4)

Christ-Centered Approach

Promotion, **admission policies**, discipline, classroom décor, environment, staff philosophy, and all aspects of the educational experience are first and foremost Christ-honoring and Biblically-oriented. The Bible is the source of absolute principles of life and conduct. Christ is upheld as the answer to all student problems.

#### **9. Celebration Christian Academy**

It should be noted that CCA supports the biblical view of marriage defined as a covenant between **one man and one woman**, and that God immutably bestows gender upon each person as male and female to reflect His image. Therefore, faculty, staff, and **student conduct is expected to align with this view**.

#### **10. Broadfording Christian Academy**

As a matter of conviction and policy, BCA disapproves of habits that debilitate the mind, spirit, and body, or are contrary to federal and state law. These include the use of illegal habit-forming drugs, alcoholic beverages, smoking and **sexual immorality**. The following habits and actions, which are contrary to Biblical growth and development and impair the group spirit, are not considered acceptable for BCA students: 1) cruelty; 2) obscenity in language, behavior; 3) disrespect and defiance; 4) immodest/dress code; 5) fighting; 6) cheating; 7) abusiveness; 8) sexual harassment; 9) lying; 10) stealing.

**NOTE: Reconsideration granted without any revision.**

#### **11. Woodstream Christian Academy**

Evidence of deviant behavior of a sexual nature (e.g., promiscuity, pregnancy, and **homosexuality**) **will be grounds for expulsion**. Issues of a sexual nature will be dealt with using the Bible as a guide while maintaining confidentiality.

#### **12. Bethel Christian Academy**

It should be noted, however, that Bethel Christian Academy supports the biblical view of marriage defined as a covenant between **one man and one woman**, and that God immutably bestows gender upon each person as male and female to reflect His image. (Gen. 1:27, Gen. 2:23-24). Therefore, faculty, staff, and **student conduct is expected to align with this view**. Faculty, staff, and students are required to identify with, dress in accordance with, and use the facilities associated with their biological gender.

# **EXHIBIT 26**

**From:** Monica Kearns -MSDE- <monica.kearns@maryland.gov>

**To:** Matthew Gallagher <matt@goldsekerfoundation.org>

**Subject:** Re: BOOST - schools in "Category 3" of legal advice memo - move forward if legal clearance?

**Date:** Thu, 12 Apr 2018 13:07:55 -0400

**Inline-Images:** changingMD.png; image002.gif; image001.gif

---

OK, thanks.  
Monica

On Thu, Apr 12, 2018 at 11:32 AM, Matthew Gallagher <[matt@goldsekerfoundation.org](mailto:matt@goldsekerfoundation.org)> wrote:  
Is the AG's office has cleared them, I'd say pay them. Seems cut and dry.

On Thu, Apr 12, 2018 at 11:17 AM, Monica Kearns -MSDE- <[monica.kearns@maryland.gov](mailto:monica.kearns@maryland.gov)> wrote:  
Matt,

Liz Kameen and Alan Dunklow have reviewed all 11 of the school handbooks in "Category 3." They said that 8 have cleared the legal hurdle but 3 have to be held (Bethel, Broadfording, and Woodstream).

Can we move forward with BOOST payments for the 8 that have legal clearance, or do we need to wait until after the next Board meeting?

Again, here is the text for "Category 3" of the legal advice memo:

The third category consists of those schools that remain silent as to admission requirements related to sexual orientation. Some of these schools often have a general nondiscrimination statement but require students and parents to adhere to religious principles, yet do not mention sexual orientation in either context. Others of these schools subscribe to a Statement on Homosexuality. That type of statement, by itself, does not violate the BOOST law because the BOOST law does not require a school to adopt any policy that conflicts with its religious teachings. Each school, however, if it wishes to participate in BOOST, must sign the assurance that it does not discriminate in admissions.

Thanks,  
Monica

On Mon, Mar 19, 2018 at 5:31 PM, Monica Kearns -MSDE- <[monica.kearns@maryland.gov](mailto:monica.kearns@maryland.gov)> wrote:  
As a follow-up to the email below:

There are 11 schools in "Category 3" of the legal advice memo concerning the non-discrimination requirements of the BOOST law. Broadfording Christian Academy just recently submitted its handbook to MSDE and we put it in Category 3. The Broadfording handbook had not been reviewed when letters were sent requesting clarification, but they provided a clarifying letter when they submitted their handbook.

Attached are:

**Exhibit**  
**39**

- The revised list of "Category 3" schools (11 schools instead of 10).
- Excerpts of the Broadfording Christian Academy handbook.
- The letter provided by Broadfording accompanying their handbook submission to MSDE.

Thank you,  
Monica

On Mon, Mar 19, 2018 at 4:13 PM, Monica Kearns -MSDE- <[monica.kearns@maryland.gov](mailto:monica.kearns@maryland.gov)> wrote:  
Dear BOOST Board Members,

At the February 21 Board meeting, it was decided that MSDE should gather additional information from schools that are in "Category 3" of the legal advice memo concerning the non-discrimination requirements of the BOOST law.

Information has been gathered and attached are several documents:

- The list of the 10 schools in Category 3.
- The letters that were sent to these schools requesting a response on how their handbook reconciles with the assurance the school signed regarding non-discrimination in admissions. The letters include the questionable statements in the handbooks.
- Responses from the schools.

Thank you,  
Monica

--



Monica Kearns  
Assistant Superintendent, Division of Business Services  
Maryland State Department of Education  
[200 West Baltimore Street](https://www.maryland.gov/government/locations/200-West-Baltimore-Street)  
[Baltimore, Maryland 21201](https://www.maryland.gov/government/locations/200-West-Baltimore-Street)  
[monica.kearns@maryland.gov](mailto:monica.kearns@maryland.gov)  
[410-767-8863](tel:410-767-8863) (office)

[Click here](#) to complete a three question customer experience survey.

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Monica Kearns  
Assistant Superintendent, Division of Business Services  
Maryland State Department of Education  
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# **EXHIBIT 27**





Deposition of:  
**Elizabeth Green**

*April 29, 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 \*

\* \* \* \* \*

Videotaped remote deposition of ELIZABETH GREEN, was taken on Thursday, April 29, 2021, commencing at 1:32 p.m., at Pessin Katz Law, P.A., 901 Dulaney Valley Road, Suite 400, Towson, Maryland, before Michele D. Lambie, RPR, a Notary Public.

Reported By: Michele D. Lambie, RPR-CSR

1 APPEARANCES:

2 On behalf of the PLAINTIFF:

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14 Assistant Attorneys General

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18

19 ALSO PRESENT: Ms. Eliza Spikes - Videographer

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EXAMINATION INDEX

ELIZABETH GREEN

BY MR. SCHMITT

6

EXHIBIT INDEX

(Attached to Transcript.)

MAR

ELIZABETH GREEN

Exhibit 111 Email dated July 1, 2020

85

1 P R O C E E D I N G S

2 THE COURT REPORTER: The attorneys  
3 participating in this deposition acknowledge that I  
4 am not physically present in the deposition room,  
5 and that I will be reporting this deposition  
6 remotely.

7 They further acknowledge that in lieu of  
8 an oath administered in person, I will administer  
9 the oath remotely.

10 The parties further agree that if the  
11 witness is testifying from a state where I am not a  
12 Notary, that the witness may be sworn in by an  
13 Notary.

14 If any party has an objection to this  
15 manner of reporting, please state now.

16 (No response.)

17 THE COURT REPORTER: Hearing none, we can  
18 proceed.

19 THE VIDEOGRAPHER: Good afternoon. We  
20 are going on the video record at 1:32 p.m. on  
21 Thursday, April 29th, 2021.

1           This is media unit number one in the  
2 video-recorded deposition of Ms. Elizabeth Green in  
3 the matter of Bethel Ministries, Inc. vs. Salmon,  
4 et al. filed in the United States District Court  
5 for the District of Maryland, Northern Division,  
6 Case Number 1:19-cv-01853.

7           This deposition is being held via Zoom.  
8 My name is Eliza Spikes from the firm Veritext, and  
9 I'm the videographer. The court reporter is  
10 Ms. Michele Lambie also from Veritext.

11           I'm not authorized to administer the  
12 oath. I'm not related to any party in this action,  
13 nor am I financially interested in the outcome.

14           Counsel and all present in the room and  
15 anyone attending remotely will now state their  
16 appearances and affiliations for the record.

17           If there any objections to this  
18 proceeding, please state them at the time of your  
19 appearance, beginning with the noticing attorney.

20           MR. SCHMITT: Hi. This is Paul Schmitt  
21 on behalf of Bethel, and I will be taking today's

1 deposition. I've got Jacob Reed observing, and  
2 Ryan Tucker observing at some point.

3 MR. FINE: Hello. This is Justin Fine.  
4 I represent the Defendants in this case as well as  
5 Ms. Green, and I'll be defending her deposition  
6 today.

7 THE VIDEOGRAPHER: Okay.

8 THE WITNESS: And Elizabeth Green. I'm a  
9 member of the BOOST Advisory Board.

10 THE WITNESS: Thank you. Will the court  
11 reporter please swear in the witness?

12 ELIZABETH GREEN,  
13 the Deponent, called for examination via Zoom by  
14 the Plaintiff, being first duly sworn to tell the  
15 truth, the whole truth, and nothing but the truth,  
16 testified as follows:

17 EXAMINATION

18 BY MR. SCHMITT:

19 Q. Okay. Ma'am, I'm Paul Schmitt. I'm from  
20 Alliance Defending Freedom, and I represent Bethel.  
21 And just as a preliminary matter, thank you for

1 making yourself available today.

2 I assume you have or you are familiar  
3 with how depositions work and that kind of thing.  
4 Have you ever been on the -- on the receiving end  
5 of a deposition before?

6 A. I have.

7 Q. Okay. So, we -- we probably don't need  
8 to go over anything as far as that goes.

9 Let's see. I assume you're in  
10 the -- alone in a conference room or somewhere at  
11 your office there?

12 A. Correct. I'm in my office by myself.

13 Q. Okay. And do you have any materials  
14 or -- or anything with you related to -- related to  
15 this? Like notes, memos, exhibits, anything like  
16 that?

17 A. I -- I printed out some exhibits, but I'm  
18 actually moving them now somewhere where they're  
19 nowhere near me. So, I have nothing in front of me  
20 at this point other than I pulled scraps of paper  
21 so that I can remember what you're saying.



1 Q. Sure. Yeah, that's great. I typically  
2 don't ask those kinds of questions, but because of  
3 the Zoom nature of it, we've just been doing that.

4 I don't intend -- I know you're busy, and  
5 I don't intend to keep you here all day. I've just  
6 got a few things I want to run through.

7 If you need a break at some point, it's  
8 totally fine. Let me know. We'll -- we'll take  
9 one, but I'm going to try to move this along pretty  
10 quickly.

11 Just, for the record, could you say and  
12 spell your name, please?

13 A. Elizabeth Green. E-L-I-Z-A-B-E-T-H,  
14 Green, G-R-E-E-N.

15 Q. Great. Thank you. And just as a  
16 preliminary matter, is there a way for you to be  
17 addressed? Do you prefer Ms. Green, Mrs. Green,  
18 Elizabeth, Liz, any of those?

19 A. Elizabeth is fine.

20 Q. Okay. I'm -- I'm Paul. You can call me  
21 Paul. Paul, it's all good. Okay. Thanks,

1 Elizabeth.

2 Could you -- what is your educational  
3 background, please?

4 A. Highest level of education is a JD from  
5 George Washington University Law School; undergrad  
6 from University of Pennsylvania. I can go back  
7 further, but --

8 Q. That will work. And your current  
9 occupation, I -- I see you practice law. Run me  
10 through your -- your professional career, please.

11 A. Yeah. For the last 23 years, I have  
12 practiced as an attorney primarily in the area of  
13 estates and trusts, a little bit of corporate as  
14 well and -- and some estate and probate litigation.

15 Q. Okay. And have you been at this firm  
16 your entire career or have you been at other  
17 places?

18 A. No. I've been at Pessin -- I've been at  
19 Pessin Katz since October of 2014. Prior to that,  
20 I was with the law firm of Franklin & Prokopik for  
21 approximately seven years. Prior to that, I spent

1 a year with a boutique estate firm, the Law Offices  
2 of Aryeh Guttenberg. Prior to that, I worked  
3 approximately seven years at the law firm of Saul  
4 Ewing, and before that, nine months with the Law  
5 Offices of Peter G. Angelos, and before that was my  
6 clerkship in the Baltimore City Circuit Court.

7 Q. I miss my clerkship years, or year.

8 So, okay. That's great. Obviously,  
9 you -- you know why we're here today, and just one  
10 more preliminary matter before we get too far  
11 afield. Did you get the link to the Exhibit Share  
12 site?

13 A. Was that -- I'm not sure.

14 THE WITNESS: Is that, Justin,  
15 what -- I'm not sure what --

16 BY MR. SCHMITT:

17 Q. Okay.

18 A. -- that was.

19 Q. I'm going to run through some exhibits  
20 today, so there's -- most of the time I drive, so  
21 I'll just screen share, and we'll look at it

1 together.

2 A. Okay.

3 Q. You have option through Exhibit Share to  
4 have control over it and maneuver it however,  
5 manipulate it however you want. If you are fine  
6 with me driving, we'll just move on. But,  
7 otherwise, I just wanted to give you that option,  
8 because I know yesterday we -- we let Donna have  
9 that. So, Donna preferred to have that, so I just  
10 wanted to ask if you cared one way or the other for  
11 that.

12 A. Well, my husband might find it surprising  
13 for me to say I'm happy to drive.

14 Q. Okay. So, if -- if we need -- I'll just  
15 do Exhibit Share for now. If we need to -- if it's  
16 easier at some point, we'll go ahead and  
17 we'll -- we'll make it work.

18 Okay. So, how did you come to be  
19 involved with BOOST?

20 A. I was appointed by Governor Hogan, and  
21 that was after an application -- honestly, I can't

1 recall whether I submitted it or it was submitted  
2 on my behalf by the Baltimore Jewish Council.

3 Q. I missed that last because you're -- I'm  
4 hearing you, but -- for the most part, except  
5 sometimes the word -- the words are a little  
6 garbled. It was the Baltimore Jewish? What was  
7 the last word?

8 A. Council.

9 Q. Council. Council.

10 A. C-O-U-N-C-I-L, yeah.

11 Q. Yeah, okay. And is that -- was the  
12 Baltimore Jewish Council the organization that  
13 identified you to potentially serve on the BOOST  
14 Board?

15 A. Yes.

16 Q. Okay. And do you know why they  
17 identified you or what -- what it was that caused  
18 them to -- to pick you?

19 A. I'm a member of the Baltimore Jewish  
20 Council Board, and I have advocated on behalf of  
21 BOOST and/or the previous iterations and, that were

1 presented to the legislature, and so they thought  
2 that I would be a good person to nominate.

3 Q. Okay. And have you been on the board  
4 since the inception of the program?

5 A. Yes.

6 Q. Okay. So, do you recall -- and you're  
7 close to the end of all of our depositions, by the  
8 way, so there's a lot of things that I'm like going  
9 through my mind trying to remember who told me what  
10 so I can ask the questions properly, but -- so do  
11 you recall how the -- the issue with schools'  
12 handbooks came up in 2017?

13 A. To the best of my recollection, it was  
14 brought to us through the PTA, and they had  
15 identified some discrim- -- potentially  
16 discriminatory language and wanted the board to  
17 consider that.

18 Q. Okay. And how much do you know about or  
19 what interactions have you ever had with the  
20 Maryland PTA?

21 A. Other than having members of the Maryland

1 PTA come to BOOST Advisory or some of our meetings,  
2 I don't believe I ever had any interaction with a  
3 member or knowingly with a member of the Maryland  
4 Parent Teacher Con- -- Association.

5 Q. Okay. Do you know anything about the PTA  
6 or -- or what the organization does, what  
7 its -- what its policy positions are?

8 A. No.

9 Q. Did you ever -- when the complaint was  
10 lodged or anything, do you recall ever researching  
11 the PTA or any of its policy positions or anything  
12 like that?

13 A. No.

14 Q. Okay. So, you recall the Maryland PTA  
15 enlightening potentially non- -- potentially  
16 discriminatory language in a handbook. Do you  
17 recall what -- where that handbook came from or  
18 who, which school it belonged to?

19 A. I do not.

20 Q. You do not. If I mentioned the name of  
21 the school Trinity Lutheran, does that sound

1 correct to you?

2 A. There were several schools that came up.  
3 That's one name that's familiar. I believe there's  
4 another one that comes -- something Broadening, I'm  
5 not sure, so I do believe that Trinity Lutheran was  
6 one of them. I couldn't identify whether that was  
7 the first one that was identified or not.

8 Q. Okay. You recall that the Maryland PTA  
9 lodged a complaint or raised this issue. As you  
10 remember it, what -- what happened next? How did  
11 the -- the board respond?

12 A. I don't have a very clear recollection of  
13 exactly what was done. I believe that they brought  
14 language to our attention, and as a result at some  
15 point, a decision was made to ask for handbooks. I  
16 don't recall, though, whether that was a first  
17 decision and leading to several other things,  
18 but -- but at some point, we did request copies of  
19 handbooks.

20 Q. Okay. And what was the reason that the  
21 board decided to request handbooks?



1           A.     There was clearly -- the legislature  
2           required that all schools sign assurances, and  
3           those assurances covered many different topics, but  
4           at least one of the topics included had to do with  
5           nondiscrimination as is required for the -- you  
6           know, for other programs, and so we had not looked  
7           into the assurances.  If they signed them, they  
8           signed them.  If they didn't sign them, they  
9           weren't in the program, period.

10           Once language was brought to the board  
11           that seemed to conflict in some way with the  
12           assurances, we felt it was our responsibility to  
13           figure what to do about it.

14           Q.     So, when you're figuring out what to do  
15           about it, it sounds like one of the decisions was  
16           to collect handbooks from the par- -- participating  
17           schools.  What other actions did the board take to  
18           ensure compliance with the legislative mandates for  
19           nondiscrimination?

20           A.     My recollection is that -- and I want to  
21           clarify we did not collect the handbooks.  MSDE

1 collected the handbooks, or read the handbooks. I  
2 don't really know what that process was, and I  
3 don't have any clear recollection of what else was  
4 done initially in -- in connection with that. I  
5 believe that -- well, I don't have any clear  
6 recollection of what was done.

7 Q. So, you don't know whether MSDE performed  
8 any research on any schools or -- or did anything  
9 outside of collecting handbooks?

10 A. I have no personal knowledge of that.

11 Q. Okay. You mentioned that MSDE or you  
12 clarified, I should say, that MSDE were the ones  
13 who collected the handbooks and did the review  
14 process. Did you personally review or as a board,  
15 I guess collectively as a board, did you review  
16 handbooks at all?

17 A. No. We were given excerpts of a few  
18 handbooks.

19 Q. Okay. So of a few handbooks. So, a  
20 school's handbook language did not come before the  
21 board unless it was proffered by MSDE; is that

1 right?

2 A. To the best of my recollection, that is  
3 correct.

4 Q. Okay. As MSDE was conducting its  
5 handbook collection and review, did the board  
6 provide the staff members or MSDE generally with  
7 any guidelines or suggestions for things to look  
8 for or processes to use?

9 A. I have no personal knowledge of anything  
10 that was provided to MSDE.

11 Q. Okay. Okay. So, some excerpts of  
12 handbooks were provided to the BOOST Board. These  
13 are not all of the schools it sounds like, but some  
14 of the BOOST schools. Which -- which schools had  
15 excerpts provided to the BOOST Board?

16 A. I don't -- you mentioned Trinity  
17 Lutheran. That may have been one of them. I don't  
18 have any -- I haven't -- I don't remember what  
19 schools it was. There were, you know, a few  
20 schools, but I don't remember.

21 Q. Okay. What would cause the MSDE to

1 provide handbook language for a school, do you  
2 know?

3 A. I don't know what their process was.

4 Q. Okay. So, and let me -- I'll just kind  
5 of cut to the chase of what I'm -- what I'm trying  
6 to get at. So, it was only the -- did MSDE only  
7 provide handbook language from schools that it  
8 thought it had -- that might have a problem or was  
9 it here are some normal, you know "normal ones" or  
10 non-problematic ones, here are some problematic  
11 ones, here are some questionable ones? What was  
12 the sample like that you guys received?

13 A. So, we definitely -- we definitely  
14 received handbooks that were deemed problematic or  
15 potentially problematic. I cannot recall whether  
16 we were given any comparisons.

17 Q. Okay. All right. That makes sense.  
18 Okay. Did you or once -- so, once you -- and do  
19 you remember roughly how many schools were  
20 identified and had their handbook language? And  
21 I'm just asking for a ballpark, not a precise

1 number, but if you had -- if you had to ballpark  
2 it, about how many schools got forwarded to you?

3 A. My ballpark guess would be six, but I've  
4 never been particularly good at guessing or  
5 estimating.

6 Q. Okay. Okay. So, you received these  
7 excerpts from MSDE of handbook language, and  
8 the -- this stuff has all been identified as  
9 problematic or potentially problematic.  
10 What -- what happens next? What did the board do  
11 at that point with that information?

12 A. To the best of my recollection, we were  
13 presented with the information, and we looked at  
14 it, and we made -- we had conversation about  
15 whether we thought that the language on its face  
16 was discriminatory, and in response to any schools  
17 where we thought there might have been an issue,  
18 MSDE sent some communications to the schools.  
19 I believe -- I believe that was the next step, a  
20 request for clarification.

21 Q. What was -- okay. That was -- that was

1 my next question. So the communication was a  
2 request for clarification. Okay. And then did any  
3 of the board members or did you -- did you or, to  
4 your knowledge, did any of the board members do any  
5 outside research or anything on any of the schools  
6 after the handbook language had been flagged?

7 A. I did not as far as I can recall. I do  
8 not know whether anyone else did.

9 Q. Okay. So, the request for clarification,  
10 requests, I should say, for clarification to allow,  
11 and then what happens after that?

12 A. In -- there was some sort of  
13 communication from the schools, and I know some of  
14 that communication was shared with our board.  
15 Our -- I don't know whether we received all of it,  
16 whether any -- I don't remember whether any  
17 resolved without our involvement, but the  
18 communication was shared with the board so that we  
19 could review it.

20 Q. Okay. And as you reviewed the  
21 communications that are coming -- coming back into

1 the school, what does the board consider as it's  
2 looking at these letters or emails or whatever they  
3 are?

4 A. So, we were trying to determine whether  
5 the language in the handbooks was in direct  
6 contradiction with the assurance and/or with the  
7 requirement of the legislation.

8 At some point, we made -- we were given  
9 guidance, and we made a determination that it had  
10 to be on its face discriminatory, and if on its  
11 face it was discriminatory, then that -- it was  
12 communicated to the schools by MSDE and, perhaps,  
13 by Matt Gallagher that there -- you know, that they  
14 were not going to be able to continue to  
15 participate in the program or that they were going  
16 to be withdrawn from the program.

17 Q. Okay. So, was that the requirement then  
18 or the standard set by the board, was that schools  
19 with facially discriminatory handbooks could not  
20 participate in those, but if your handbook language  
21 is not facially discriminatory, you're allowed to

1 participate in BOOST?

2 A. So, originally it was a little bit  
3 confusing for us, and so we saw the language that  
4 was presented. There were a lot of statements as  
5 to religious ideology in some of the handbooks, and  
6 I believe initially we considered excluding a -- a  
7 larger group of schools.

8 After the Supreme Court decision came  
9 down, it was clear that we needed to look at the  
10 handbooks again and make a determination based on  
11 the four corners of the document whether a school  
12 was giving itself permission to discriminate  
13 against students, and so my understanding was that  
14 it was when the schools had overtly given  
15 themselves explicit permission to discriminate  
16 against students that those were the very small  
17 subset of schools that were excluded from the  
18 program. My recollection is we gave schools the  
19 opportunity to revise their handbooks to remove  
20 that language and submit it.

21 Q. Okay. You referenced a Supreme Court



1 decision that came down. What decision was that?

2 A. It's commonly referred to as the Cake  
3 Baker decision.

4 Q. Oh, Masterpiece. Yeah, that's our case.  
5 Let's see. Okay.

6 So, Masterpiece came down, and that --  
7 and that changed the scope of what you were looking  
8 at, correct?

9 A. Correct.

10 Q. Okay. Okay. That makes sense. So,  
11 I'm -- I'm thinking back through my head about the  
12 timeline of how all of this happened. Sorry for  
13 the delay.

14 So, let me show you -- it's in -- if you  
15 have Veritext Exhibit Share pulled up, it's in your  
16 folder, but I'm going to screen share here in just  
17 a second if that's okay with you, and you can do  
18 both. You can do both. Okay.

19 Do you see a document -- well, hang on.  
20 I need to stamp that. Sorry.

21 A. I don't --

1 Q. Hang on one second. For some reason, it  
2 didn't get a Bates or an exhibit stamp on it  
3 before. Okay. So, I'll screen share again.

4 Okay. Do you see -- I have pulled up a  
5 document with an Exhibit 46 sticker on it.

6 A. Yes.

7 Q. Okay. This is BETHEL DEFENDANTS1820, and  
8 take a minute to just look at it and become  
9 familiar with it.

10 (Whereupon, there was a pause for  
11 document examination.)

12 THE WITNESS: I see generally what it is.  
13 I was trying to get back into the Exhibit Share,  
14 but I, of course, don't remember my password. So,  
15 once I get in, then I'll be able to see it easily.

16 BY MR. SCHMITT:

17 Q. Yeah, I'm the same person with password  
18 situations, so that's why I -- I offered the  
19 screen-share thing, but if you want to take a look,  
20 you can go and do it that way.

21 A. Let me just -- if -- if it will let me

1 right now, then I can see it more easily.

2 Q. Sure.

3 A. Okay. Exhibit 46 you said?

4 Q. Forty-six.

5 A. Okay. Yes.

6 Q. Does that look familiar to you?

7 A. I don't recall this specific document.

8 Q. Okay. Do you see that it's got languages  
9 from or language from the different Budget Bills  
10 from each of the years for the BOOST Program?

11 A. I see that it is listed as having budget  
12 language for each of the years. I don't -- I'm not  
13 familiar with the document, but yes.

14 Q. Okay. If I represent to you that this is  
15 the nondiscrimination requirement for BOOST for  
16 each year of the program up through 2020, does that  
17 look familiar to you?

18 A. I am happy to take your representation  
19 that that's actually what it is.

20 Q. Yeah. I -- I'm quite certain that it is.  
21 Okay.

1           Okay. So, if you look at the Fiscal  
2           Years '17 and '18, 2017 and 2018, take a minute and  
3           just look through that language.

4           (Whereupon, there was a pause for  
5           document examination.)

6           THE WITNESS: Um-hum. I have -- I have  
7           looked at that.

8           BY MR. SCHMITT:

9           Q. Okay. And do you see that it -- that the  
10          protected classes for the nondiscrimination  
11          requirement include race, color, national origin,  
12          and sexual orientation, correct?

13          A. Correct.

14          Q. Okay. And it requires that participating  
15          schools not discriminate in student admissions,  
16          correct?

17          A. Correct.

18          Q. Okay. I'm scrolling down then to Fiscal  
19          Year 2019, and it appears that this is largely the  
20          same. The protected classes are race, color,  
21          national origin, or sexual orientation; is that

1 right?

2 A. Correct.

3 Q. But there's an added provision up above  
4 that says that those who previously violated  
5 nondiscrimination requirements are -- were found to  
6 be in violation of them couldn't participate in the  
7 program for 2019; do you see that?

8 A. I do see it.

9 Q. Okay. And it also appears that there's  
10 an addition -- yes, that there's an addition that  
11 as an eligibility requirement, the schools must  
12 participate in the aging schools program -- strike  
13 that. Strike that.

14 It also says that if you're found to  
15 violate the nondiscrimination requirements, that  
16 you are ineligible for the aid to Nonpublic Schools  
17 Program and the Aging Schools Program in addition,  
18 to those for two years; is that right?

19 A. Correct.

20 Q. Okay. And then I'm going to roll down  
21 here to Fiscal Year '20, and it appears that now

1 the protected classes included, race, color,  
2 national origin, sexual orientation, and then the  
3 additions of gender identity or expression, do you  
4 see that?

5 A. Yes.

6 Q. Okay. And do you see that the  
7 requirement expanded from admissions to retention,  
8 expulsion, or otherwise discriminate against those  
9 students?

10 A. Yes.

11 Q. Okay. Okay. So, let's take one second  
12 and remind ourselves again. So, Fiscal  
13 Year -- Fiscal Year 2018 would be the school year  
14 2017 to 2018, correct?

15 A. I believe you.

16 Q. I didn't -- I didn't -- I'm pretty sure  
17 that's right, so. And in that year, it would have  
18 been -- am I correct that for Fiscal Year 2018, the  
19 nondiscrimination requirement was that schools  
20 could not discriminate in student admissions on the  
21 basis of race, color, national origin, or sexual

1 orientation?

2 A. Yes.

3 Q. Okay. So, we were just talking about the  
4 process by which the board was looking at the  
5 handbook language for different schools and -- and  
6 how that process came along, and then Masterpiece  
7 impacted that process.

8 So, what -- when the board was presented  
9 with handbook language, how did it conduct its  
10 analysis or -- or deliberation for a particular  
11 school?

12 A. My recollection is we were given  
13 language. We looked at it. We decided whether we  
14 felt that it was -- was in conflict with the  
15 assurances and requirements of the legislation, and  
16 if we felt that it was -- well, and -- and then we  
17 held -- we had conversation about it. We spoke  
18 about what we thought, and ultimately we had a vote  
19 about whether we -- we as a board felt that it rose  
20 to the level of being in violation with legislation  
21 or the legis- -- the legislature's requirements.

1 Q. Okay. Did the board have any kind of  
2 standard that it employed or guidance that it used  
3 when it looked through the handbook language or  
4 when it evaluated the handbook, the handbooks?

5 A. I'm not sure that I understand you  
6 completely.

7 As -- as I think I said before, we  
8 initially did a little more broadly and then  
9 ultimately brought it back into did we -- as we  
10 looked at it, did we feel that the language on its  
11 face reserved for the school the right to  
12 discriminate in admission? And then ultimately to  
13 align, it went beyond, the language became broader.  
14 Did it on its face reserve the right for the school  
15 to discriminate in violation of the legislation?

16 Q. Right. So, I guess -- I guess what my  
17 question is going toward is, to be -- to be  
18 determined facially discriminatory, is that a thing  
19 that it's your perception of it as a subjective  
20 reader or is -- or were you given a guidance or a  
21 standard or something for the employees to



1 determine whether something is facially  
2 discriminatory?

3 A. We were given some guidance. I don't  
4 know that the guidance was that specific. I -- I  
5 don't -- we certainly weren't given a, you know,  
6 law school lesson in determining whether something  
7 was facially discriminatory. I think I -- but  
8 we -- but we were given guidance about, you know,  
9 if the language was clearly discriminatory, if it  
10 simply was a statement of religious belief, you  
11 know, those were very different situations.

12 Q. Okay. If you've got your Exhibit Share  
13 up, you can pull up Exhibit 33, please, and I'll  
14 also bring it up on my screen here.

15 A. I have it up.

16 Q. Okay. Great. Do you see that I have  
17 marked this as Exhibit 33? It's Bates stamped  
18 BETHEL DEFENDANTS1332.

19 A. Yes.

20 Q. Okay. Do you recognize this document?

21 A. It -- it -- the -- the timing of it is

1 familiar. I remember receiving something like  
2 this, and in -- but I -- I don't have a clear  
3 indication -- you know, I don't have a clear,  
4 independent recollection of receiving this specific  
5 document, but I remember receiving something along  
6 these lines and believe this is probably what we  
7 got.

8 Q. Okay. If you scroll down to the second  
9 page, there's three categories or bulleted  
10 paragraphs there. Go ahead and take a second to  
11 review those, and just let me know when you're  
12 done, Elizabeth.

13 (Whereupon, there was a pause for  
14 document examination.)

15 THE WITNESS: Okay.

16 BY MR. SCHMITT:

17 Q. Okay. So, you said there were -- we were  
18 talking earlier about the standards that the board  
19 was trying to employ, particularly with schools  
20 that reserved the right to discriminate.

21 Do you see that the memo here describes

1 three categories? And the first category includes  
2 kind of what you're talking about there, schools  
3 that expressly reserve the right to refuse  
4 admission based on sexual orientation?

5 A. Yes.

6 Q. Okay. And do you see that it  
7 describes -- in the next sentence, it says, it's on  
8 its face discriminatory and in conflict with BOOST  
9 law?

10 A. Yes.

11 Q. Okay. And then do you see the second  
12 category appears to be schools that refuse to or,  
13 excuse me, reserve the right to refuse admissions  
14 to students who engage in sexual misconduct?

15 A. Yes.

16 Q. Okay. And then there's a third category  
17 of schools, and it's -- it says -- am I correct  
18 that it says that those schools remain silent as to  
19 admission requirements related to sexual  
20 orientation?

21 A. Yes.

1 Q. Okay. You were talking about earlier  
2 some of the schools had general religious  
3 principles, and you were looking at -- you were  
4 looking at that, and that the Masterpiece opinion  
5 changed the board's analysis.

6 This -- is, are those schools that you're  
7 talking about in that context, would they fall  
8 under this third category?

9 A. As long as they -- well, I was talking  
10 about that third category, but I -- I think that  
11 the second sentence that I'm -- some of the schools  
12 had a general nondiscrimination statement, but  
13 require students and parents to adhere to religious  
14 principles, yet do not mention --

15 THE COURT REPORTER: I'm sorry, I'm  
16 having a hard -- I'm sorry, I'm having a hard time.  
17 Can you slow down reading? And your words are kind  
18 of choppy with your connection.

19 THE WITNESS: I -- I normally don't have  
20 an issue connecting this way. Let me just see. Is  
21 this any clearer? Is this a clearer connection?

1 Okay.

2 So, I was reading the second sentence of  
3 paragraph 2, While this policy applies to some  
4 heterosexual conduct, it applies to any homosexual  
5 conduct, which means that admission may be denied  
6 on the basis of actual -- excuse me, I'm in the  
7 wrong one.

8 In 3, Some of these schools often have a  
9 general nondiscrimination statement, but require  
10 students and parents to adhere to religious  
11 principles, yet do not mention sexual orientation  
12 in either context. So, those are the schools that  
13 fell under No. 3.

14 There is a category of school that wasn't  
15 tying admissions requirements to -- it might not  
16 have said we will not admit if, but then qualified  
17 their language talking about sexual orientation or  
18 gender identity issues.

19 Q. Okay. Let's see here.

20 A. I can't -- now I can't hear. Hold on.  
21 Let me see. I'm not -- can you hear me now?

1 MR. FINE: Yes.

2 MR. SCHMITT: Yes.

3 THE WITNESS: Okay. And I can hear you,  
4 so we can see if this will work. I have a couple  
5 of different ways to do it, so.

6 BY MR. SCHMITT:

7 Q. Okay. And -- and the other thing  
8 sometimes that helps, there might be a little  
9 feedback. Sometimes it helps to -- to do the  
10 call-in option if you have got a phone sitting  
11 there, so --

12 A. Okay. Well --

13 Q. But --

14 A. Back to version one, we'll see if this  
15 mostly works.

16 Q. I -- I think if you just project, it  
17 should be okay, if we just speak slowly and  
18 project, because I was having a problem yesterday.  
19 When I was back in my chair, nobody could hear me,  
20 so okay.

21 So, let's go to -- where are we at?

1 Marked Exhibits. Okay. So, I'm going to have you  
2 pull up, Elizabeth, if it's okay, Exhibit 2.

3 A. Okay.

4 Q. You mentioned that you didn't review  
5 handbooks, but you reviewed excerpts from handbooks  
6 that were provided by MSDE, correct?

7 A. Correct.

8 Q. Okay. So, you -- you probably haven't  
9 seen this entire document, but maybe you've seen  
10 portions of it. Does it look familiar to you at  
11 all?

12 A. As you said, I -- we did not review  
13 entire handbooks, but I, you know, will -- will  
14 take it out of faith that we reviewed a couple of  
15 provisions on here.

16 Q. Okay. Let's scroll down to page 7. It's  
17 marked page 7. I don't know -- yeah, it is page 7,  
18 and I'll -- just so we're on the same page, I'll go  
19 ahead and screen share again.

20 A. Okay.

21 Q. Okay. Does this look familiar at all?

1 A. It looks somewhat familiar.

2 Q. Okay. So, maybe vaguely familiar. Go  
3 ahead and take a minute to read through. So, this  
4 is -- I'm looking at Exhibit 2, which has got a  
5 Bates stamp at the top, Plaintiff's MPI Exhibit 1.  
6 It has got a Bates number 0008. It's Bethel's  
7 Admissions Policy on page 7 and its Statement of  
8 Nondiscrimination on the same page.

9 A. Yeah.

10 Q. Go ahead and take a minute to read  
11 through this page, and once you feel familiar with  
12 it, let me know.

13 A. No, I'm -- as you were talking, I was  
14 looking at it. I'm familiar with it.

15 Q. Okay. Does -- does Bethel reserve the  
16 right in its Admissions Policy to -- to refuse  
17 admissions to students on the basis of sexual  
18 orientation?

19 MR. FINE: Objection. Form and --

20 THE WITNESS: That's --

21 MR. FINE: -- and the document speaks for



1       itself. I'm sorry, you can answer.

2               THE WITNESS: That's interesting, and  
3       look at the language, because what Bethel does is,  
4       is it excludes from its nondiscrimina-  
5       nondiscrimination language anything having to do  
6       with any of the -- you know, of -- of sexual  
7       orientation, gender identity, etcetera.

8               So, it neither -- it is a non-statement  
9       there; however, immediately thereafter states that  
10      all students are required to identify with, dress  
11      in accordance with, and use facilities associated  
12      with their biological gender.

13      BY MR. SCHMITT:

14             Q.     Okay. I've heard several people --

15             A.     And that --

16             Q.     Go ahead. Sorry.

17             A.     That is something that we were -- you  
18      know, that requirement we were either given  
19      guidance or we felt that that, that requirement was  
20      viewed in the totality as a requirement of, you  
21      know, sort of against any gender identity issues.

1 Q. Okay. I've heard that explanation a few  
2 times now. I just want to scroll back up to the  
3 cover. This was the handbook from 2017-2018,  
4 correct?

5 A. Correct.

6 Q. And the BOOST law in Fiscal Year 2018 did  
7 not include a nondiscrimination requirement for  
8 gender identity or expression, correct?

9 A. I believe from what you showed me that  
10 that is correct.

11 Q. Okay. So, the gender identity language  
12 doesn't seem like it would be relevant.

13 MR. FINE: Objection. Form.

14 THE WITNESS: If -- if we're talking  
15 about 20 -- if you're limiting it to a 2018  
16 discussion, which you didn't in -- in your  
17 question, but if we're talking -- I mean, I also  
18 can point first -- well, right. You -- you did not  
19 clari- -- you did not specify that we were speaking  
20 about 2018. You are correct, 2018, that was not  
21 there.

1 BY MR. SCHMITT:

2 Q. Okay. Okay. Well, I asked -- my  
3 question was limited to sexual orientation, so that  
4 was -- that was where I was trying to limit.

5 Okay. So, let's -- let's talk  
6 about -- and I'll back out of this exhibit. Let's  
7 talk about the gender identity thing for a second.

8 So, I'm pulling up Exhibit 46 again. So,  
9 being that you're on the BOOST Board and that it's  
10 your responsibility to enforce nondiscrimination  
11 requirements, what does it mean -- what does gender  
12 identity mean in the context that schools can't  
13 expel students on -- from retention or, excuse me,  
14 that students can't refuse admission or deny  
15 retention or expel students on the basis of gender  
16 identity? What does gender identity mean in that  
17 context?

18 MR. FINE: Objection. Form.

19 THE WITNESS: My -- my understanding is  
20 that gender identity had to do with whether a  
21 person views himself or herself based on the gender

1 assigned to him or her at birth or is with the  
2 other gender or is non-gender specific.

3 BY MR. SCHMITT:

4 Q. What does gender -- how -- what does  
5 gender expression mean?

6 MR. FINE: Objection. Form.

7 THE WITNESS: Again, my understanding of  
8 what gender expression, that -- honest -- honestly,  
9 I don't know specifically where the line comes  
10 between gender identity and gender expression, so I  
11 really can't answer very clearly, but gender  
12 expression involves whether a person dresses based  
13 on their gender that was assigned at birth, so.

14 BY MR. SCHMITT:

15 Q. Okay. Do you know, are there schools  
16 that participate in any of these public programs?  
17 And because you're on the BOOST Board, we'll stick  
18 with BOOST. Are there any BOOST schools that are  
19 either all-boys' or all-girls' schools?

20 A. Yes.

21 Q. Okay. To be eligible for BOOST, does an

1 all-boys' school have to accept an applicant who is  
2 a biological female if the biological female  
3 believes that or identifies as a -- as a male?

4 MR. FINE: Objection. Form.

5 THE WITNESS: I don't -- I've  
6 never -- we -- I don't believe we ever had that  
7 presented to us, and if we did, then I believe  
8 that's something which we would need to seek  
9 guidance of Counsel, as would probably many of  
10 those schools.

11 BY MR. SCHMITT:

12 Q. Okay. So, is -- is the law clear?

13 A. The law is clear. The application in the  
14 example that you're giving, we would seek guidance.  
15 That doesn't mean the law isn't clear.

16 Q. Are there schools that participate in  
17 BOOST that have gender-specific dress requirements  
18 for their students, like uniforms?

19 A. There are schools that have uniforms. I  
20 don't know whether those uniforms are gender  
21 specific.

1 Q. Okay. If I were -- let's say I'm a  
2 parochial school, and I require all -- all boys to  
3 wear, I don't know, an Oxford and some chinos and a  
4 blazer or something like that and all females to  
5 wear a skirt and a blouse and some -- maybe a  
6 similar jacket or a cardigan or something like  
7 that. Would the -- if a BOOST school in that  
8 scenario signed the assurance, would they have to  
9 let a student who identifies as transgender use the  
10 or dress in accordance with the -- the gender of  
11 their choice?

12 MR. FINE: Objection. Form.

13 THE WITNESS: If a -- just so I  
14 understand what you're -- you're saying, you have a  
15 mixed-gender school. Boys are required to wear a  
16 certain form of dress, girls are required to use a  
17 certain form of dress and the question is whether  
18 if the school had a student who identified as the  
19 opposite gender and they didn't allow them to dress  
20 in that form, whether that would be in violation of  
21 the assurances; is that your question?

1 BY MR. SCHMITT:

2 Q. Yes. Exactly.

3 A. I guess it would depend on whether it was  
4 viewed as discriminatory.

5 Q. Okay. Well, as a BOOST Board member,  
6 what do you think?

7 A. I've never had to consider that, and so  
8 that would be speculative on my part.

9 Q. Okay. So -- so, you don't know whether  
10 forcing a child to or a student -- strike that.  
11 That was wrong.

12 So, you can't tell me whether requiring a  
13 student to dress as -- in the uniform appropriate  
14 to their biological sex would be discriminatory for  
15 the BOOST Program?

16 MR. FINE: Objection. Form.

17 THE WITNESS: Requiring a student to  
18 dress in accordance with their gender assigned at  
19 birth, if that student identified in a different  
20 way, would he be viewed as in violation of the 2020  
21 language? Yeah, I do believe that that would be a

1 violation of the 2020 language.

2 BY MR. SCHMITT:

3 Q. And going back up. So, for 2018, the  
4 gender identity language is not included in that  
5 year; is that correct?

6 A. Correct.

7 Q. Okay. Give me one second.

8 Elizabeth, do you remember when the BOOST  
9 Board got looped into the -- so, if the -- that  
10 memo I showed you earlier was dated early January  
11 of 2020, and I'll represent to you that the Trinity  
12 Lutheran thing got flagged and was considered  
13 around October of 2017.

14 Do you remember at what point the BOOST  
15 Board started reviewing handbook language  
16 and -- and making considerations?

17 A. I do not.

18 Q. Okay. Okay. Let me -- sorry, I'm going  
19 to pull up something that I didn't think I was  
20 going to use today. Ah, okay.

21 Let me see if I have got a stamp on it.



1 No. Great. So, I'm going to put this in your  
2 folder. It should be Exhibit 59, and I'll go ahead  
3 and pull it up here, too.

4 So, you were telling me earlier about the  
5 letters that went out to get more information from  
6 schools that raised concerns; do you remember that?

7 A. Yes.

8 Q. Okay. Go ahead and -- I've got Exhibit  
9 59 here. It's BETHEL DEFENDANTS3526. Go ahead and  
10 take a little time and scroll through there and  
11 just kind of familiarize yourself  
12 with -- familiarize yourself. I think it's  
13 multiple versions of the same kind of form letter  
14 that got sent out to those schools.

15 (Whereupon, there was a pause for  
16 document examination.)

17 THE WITNESS: Okay.

18 BY MR. SCHMITT:

19 Q. Does that look familiar to you?

20 A. I -- I don't remember seeing all of the  
21 letters that were sent out. If -- if we received a

1 copy of every single one of them, I gather I  
2 probably didn't read them all that went out,  
3 because I don't remember seeing 22 letters or 22  
4 pages of letters.

5 Q. Okay. Okay.

6 A. And I don't see anything that says that  
7 they're copied to us. I don't know.

8 Q. Okay. Do these appear to be the letters  
9 requesting more information?

10 A. That is what they appear to be, yes.

11 Q. Okay. And do you see that they're all  
12 dated March 5th?

13 A. Yes.

14 Q. Okay. Let's see. I'm going to pull up  
15 Exhibit 35, which let me -- I'm pretty sure this is  
16 stamped. Let me drop this into your folder, and  
17 I'll share it. Go ahead and take a look at that.

18 (Whereupon, there was a pause for  
19 document examination.)

20 THE WITNESS: Okay.

21 BY MR. SCHMITT:

1 Q. Okay. Do you see I've marked this  
2 document Exhibit 35. It's got a Bates stamp on it  
3 BETHEL DEFENDANTS3477.

4 A. Yes.

5 Q. Okay. Do you recognize this?

6 A. I recognize the format.

7 Q. Okay. And it appears to be a summary of  
8 BOOST Board decisions from the February 21st, 2018  
9 meeting, correct?

10 A. Correct.

11 Q. Okay. Do you see under the numbered  
12 bullet 1), and then under sub-point a and i. it  
13 discuss -- well, do you see that section 1)a.  
14 discusses the memo that we looked at earlier?

15 A. Yes.

16 Q. Okay. And do you see that subsection  
17 1)a.i. talks about how two of the categories listed  
18 in that memo are facially discriminatory, but the  
19 third category falls into a grey area?

20 A. Yes.

21 Q. Okay. I'm going to ask you a couple of

1 questions. Do you see down on subsection b., it  
2 discusses clawbacks and reimbursement?

3 A. Yes.

4 Q. Why did the BOOST Board decide to pursue  
5 clawbacks from schools?

6 A. This was not something that was  
7 undertaken very lightly. It was not something that  
8 was not -- okay. This was not something that was  
9 undertaken lightly. We recognized this could have  
10 a tremendous financial impact on the schools;  
11 however, we ultimately determined that at the  
12 outset when it came to requesting the payback, we  
13 had a duty to the state of Maryland to be good  
14 stewards of their funds, and as a result if it was  
15 deemed that these schools had a violation, that as  
16 good stewards of the funds going to the state of  
17 Maryland and the taxpayers, it was incumbent on us  
18 to ask for them back.

19 What -- what was done after that in terms  
20 of the individual schools negotiating with the  
21 state of Maryland was outside our purview, and I do

1 recall conversation about that because none of us  
2 felt -- again, it was -- it was not something that  
3 was simple to any of us.

4 Q. Okay. I'm going to ask a question about  
5 or a follow-up on that. You mentioned a duty to be  
6 a good steward of the state's funds. Did the BOOST  
7 Program -- does the BOOST Program spend all of its  
8 allocated money on scholarships every year?

9 A. We try to. We have been unsuccessful  
10 based on time issues and the fact that we're  
11 talking about a segment of the educational  
12 community that move around. So, there are students  
13 that are enrolled and de-enrolled, move back to a  
14 public school, move to an ineligible school, so  
15 while my personal practice would be that we would  
16 spend every single penny available, we have not  
17 been successful in doing so in any of the years  
18 of -- of the program.

19 Q. So no?

20 A. No. We've been able to roll over the  
21 funds, though, this year or I think every year.

1 Q. Okay. So, if -- do you know  
2 whether -- if the BOOST Board had not decided to  
3 claw back funds from recipient schools, do you know  
4 whether there would be any unfulfilled scholarship  
5 requests?

6 A. Can you restate that? Or --

7 Q. I think I got that backwards, so I'll try  
8 it again. If the BOOST -- if the BOOST Board had  
9 not declined to claw back funds, right -- scratch  
10 that. I'll get this right one of these times.

11 If the BOOST Board declined to claw back  
12 funds, meaning they decided not to pursue the  
13 clawbacks, there we go, would any scholarship  
14 requests -- do you know whether any scholarship  
15 requests would have gone unfulfilled due to lack of  
16 funds?

17 A. The -- I'm just having trouble following  
18 your question. Do I know if any of the --

19 Q. Right. So my --

20 A. I don't believe --

21 Q. That's fine.

1           A.    I don't believe that, that a statement,  
2           the second statement follows the first.

3                    So, if I take your words on their face,  
4           no, I don't think that the clawback has anything to  
5           do with the award in that particular -- in the year  
6           in which those were awarded.

7                    The -- the award of initial scholarships,  
8           I don't remember if any of the clawbacks might -- I  
9           don't -- no clawback could have -- I don't believe  
10          a clawback happened in a year that funds were then  
11          able to be reallocated in that particular year.

12          Q.    So, future scholarships weren't  
13          contingent on clawing back any funds from any BOOST  
14          school?

15          A.    I don't know what happened with the funds  
16          when they were returned to the state of Maryland,  
17          or if they were, in fact, returned to the state of  
18          Maryland, and I don't know where they were or would  
19          have been allocated as I don't know anything about  
20          the budgeting issues with this.

21                   THE COURT REPORTER:   Counsel, can we go

1 off the record, please?

2 MR. SCHMITT: Yes.

3 THE VIDEOGRAPHER: Off the video record  
4 at 2:26 p.m.

5 (Recess taken -- 2:46 p.m.)

6 (After recess -- 2:49 p.m.)

7 THE VIDEOGRAPHER: Back on the record at  
8 2:49 p.m.

9 MR. SCHMITT: Thanks, Eliza.

10 BY MR. SCHMITT:

11 Q. Okay. Where did that go? Okay.

12 So, I have pulled up Exhibit 59 again on  
13 screen share here, and so this is March 5th of  
14 2018. I'm on BETHEL DEFENDANTS3526.0003 -- excuse  
15 me .003. Do you see that?

16 A. Yes.

17 Q. Okay. Am I right that this is the  
18 follow-up letter sent to Bethel Christian Academy  
19 from the MSDE on the handbook review?

20 A. That is what it appears to be.

21 Q. Okay. What was the -- the language from



1 Bethel's handbook that got flagged by MSDE?

2 A. It appears to be the section of Statement  
3 of Nondiscrimination, the two paragraphs that were  
4 identified previously for me, you know, that starts  
5 in terms of not discriminating based on race,  
6 color, national, or ethnic origin, and then the  
7 language about aligning with the view of marriage  
8 being between one man and one woman and using  
9 facilities and dress in accordance with biological  
10 gender.

11 Q. Okay. And to be clear, Bethel's handbook  
12 says that their view that marriage is defined as a  
13 covenant between one man and one woman is what they  
14 described as the biblical view of marriage,  
15 correct?

16 A. Bethel describes -- Bethel describes that  
17 it's a Biblical view and then states that faculty,  
18 staff, and student conduct is expected to align  
19 with this view; correct.

20 Q. Okay. Elizabeth, do you know anything  
21 about Bethel as a school?

1 A. Not a thing.

2 Q. Okay. If I represent to you that it's a  
3 kindergarten through 8th grade school, does that  
4 make sense or would you accept that?

5 A. I will -- I will accept that  
6 representation.

7 Q. Okay. How is this -- the biblical view  
8 that marriage is a covenant between one man and one  
9 woman relevant to kindergartners through 8th  
10 graders?

11 A. I don't know anything about what's going  
12 on in the school, the parent body or the students,  
13 but, I mean, I -- I -- my own personal, you know,  
14 interpretation is that it does apply to a dating  
15 context as well.

16 Q. If I told you that no students at Bethel,  
17 heterosexual, homosexual, anybody are allowed to  
18 date, does that change your analysis at all?

19 A. Does it change my analysis if that's what  
20 it relates to? It does not. I mean, I -- I think  
21 that's how it -- it applies, is in the dating

1 context.

2 Q. Right. So, the comment about marriage is  
3 relevant to the -- to student dating, is that -- is  
4 that what you're telling me?

5 A. My own personal interpretation of that  
6 would be that it would be relevant to dating;  
7 correct.

8 Q. Okay. Let's look at another one. I  
9 think this should already be in your folder. It  
10 will be Exhibit 15, and, of course, it's not  
11 stamped, but --

12 A. I'm sorry, I didn't hear. Exhibit what?

13 Q. Hang on one second, because what I think  
14 I'm going to do -- yeah, hang on one second. I'm  
15 going to put a stamp on it. I don't know why --  
16 it's frustrating. Okay.

17 Do you remember the BOOST Board deciding  
18 at any point to retrieve more information from  
19 schools that were in category 3?

20 A. I don't have an independent recollection  
21 of that.

1 Q. Okay. I have pulled up what's been  
2 marked Exhibit 15. It's BETHEL DEFENDANTS3424. Do  
3 you see that?

4 A. Yes.

5 Q. Okay. Go ahead and take a minute to look  
6 at that and see if it is familiar to you.

7 (Whereupon, there was a pause for  
8 document examination.)

9 THE WITNESS: Okay.

10 BY MR. SCHMITT:

11 Q. Okay. Do you recognize this document?

12 A. Again, I do not.

13 Q. Okay. This is on Maryland State  
14 Department of Education letterhead, and it's dated  
15 May 25th, 2018, correct?

16 A. Yes.

17 Q. And it's addressed to Claire Dant at  
18 Bethel Christian Academy?

19 A. Correct.

20 Q. And it's signed by Monica Kearns?

21 A. Yes.

1 Q. Okay. And does this letter appear to be  
2 saying that the BOOST Board wants more information,  
3 and it poses two questions to the school. The  
4 first question being, does your school discriminate  
5 in student admissions on the basis of sexual  
6 orientation? And the second being, if your school  
7 was to discover that one of its students was in  
8 violation of the school's religious and moral  
9 teachings concerning sexual orientation, what would  
10 it do to address it?

11 A. That is what the letter states, yes.

12 Q. Okay. Let me pull up Exhibit 16. Okay.  
13 Do you see a document Plaintiff's MPI Exhibit 5  
14 with a Bates stamp 0074?

15 A. Yes.

16 Q. Okay. Do you see it is on Bethel  
17 Christian Academy letterhead? It's dated May 29th,  
18 2018, and it's addressed to Monica Kearns and the  
19 BOOST Board?

20 A. Yes.

21 Q. Okay. Take a minute to just take a look

1 at it if you'd like.

2 (Whereupon, there was a pause for  
3 document examination.)

4 THE WITNESS: Okay.

5 BY MR. SCHMITT:

6 Q. Okay. Does this appear to be Bethel  
7 answering the two questions that the BOOST Board  
8 requested information for?

9 A. It appears to be Bethel responding to the  
10 two questions, yes.

11 Q. Okay. Do you -- do you have any  
12 recollection of this?

13 A. I don't. I guess I don't have a great  
14 memory.

15 Q. It's been a little while. Do you see in  
16 here it says, any student who can meet Bethel's  
17 academic standards and is likely to structure in  
18 its -- excuse me, likely to strive in its  
19 structured environment is welcome to join their  
20 school community regardless of religious beliefs,  
21 experience the same-sex attraction, sexual

1 self-identification, past participation in same-sex  
2 behavior, beliefs about marriage or beliefs about  
3 sexual morality?

4 A. Yes.

5 Q. Do you see that?

6 A. Yes.

7 Q. Oh. What's that?

8 A. I thought perhaps you didn't hear me.

9 Yes, I do.

10 Q. Sorry. I was just making sure I was  
11 going to ask you the right thing. Do you see  
12 Mrs. Dant quotes her March 13th letter and says  
13 that -- and this is in respect to the second  
14 question of what would Bethel do if it discovered  
15 that one of its students was violating a moral  
16 teaching, its religious or moral teaching on sexual  
17 orientation.

18 Do you see that it quotes her March 13th  
19 letter and says that an admitted student 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 A. Yes.

5 Q. Okay. Do you recall weighing or  
6 deliberating about Bethel's response at all?

7 A. I have no recollection of that.

8 Q. Okay. Let's go to -- what do you recall  
9 about the June 21st, 2018 board meeting?

10 A. Nothing.

11 Q. Okay. Let me pull up -- let me pull up  
12 Exhibit 36 here. Hold on one second. Okay. That  
13 should be in your folder now. I'm going to go  
14 ahead and share it.

15 Okay. Do you see that I have marked this  
16 document Exhibit 36. It's BETHEL DEFENDANTS2333.

17 A. Yes.

18 Q. Okay. Take a second to look at it, and  
19 let me know when you're ready.

20 (Whereupon, there was a pause for  
21 document examination.)



1 THE WITNESS: Yes.

2 BY MR. SCHMITT:

3 Q. Okay. Do you see on -- because this is  
4 a -- well, let me -- let me ask you, what is this  
5 document?

6 A. This is a summary of decisions made at  
7 the advisory board meeting on June 21st, 2018.

8 Q. Okay. Do you see in bullet point 3, it's  
9 got schools' student handbooks and the  
10 nondiscrimination requirements as a label?

11 A. Yes.

12 Q. Okay. Do you see that the BOOST Board  
13 made a couple of determinations?

14 A. Yes.

15 Q. Okay. Did -- do you see that the board  
16 unanimously decided that Bethel Christian Academy  
17 and Woodstream Christian Academy were ineligible?

18 A. Yes.

19 Q. Okay. Do you have any recollection of  
20 that determination?

21 A. I recall that some schools were brought

1 back in, and some schools were not, but I did not  
2 recall which schools were which.

3 Q. Okay. And you don't recall any specific  
4 deliberations particular to Bethel?

5 A. No.

6 Q. Okay. When the BOOST Board received  
7 language -- well, let me -- let me ask you this:  
8 This is a more global question. How did the BOOST  
9 Board determine that it had the authority to decide  
10 whether schools could participate or not  
11 participate in the program?

12 A. How did the BOOST Board decide that we  
13 had the authority to decide what schools could  
14 participate?

15 Q. (Nodding head yes.)

16 A. So, initially we were informed that -- I  
17 believe the legislation was specific that certain  
18 schools participating in the textbook program were  
19 eligible, and then we really had nothing to do with  
20 identifying what schools were or were not part of  
21 the program. That was done at the MSDE level.

1           The only time we addressed whether a  
2 school could or could not participate was if an  
3 issue was brought to us based on whether the school  
4 had complied with providing all of the information  
5 required in order to participate in the program.

6           Q.    And I guess my question is why was  
7 that -- why were eligibility, school eligibility  
8 decisions put on the board as opposed to the MSDE?

9           A.    Specifically on this issue or just in  
10 general?

11          Q.    Both.

12          A.    So, I know that MSDE reported back to us  
13 about compliance with the requirements of the  
14 legislation, and, you know, initially that had a  
15 lot to do with just a tremendous amount of  
16 reporting requirements that were on the schools,  
17 and -- and MSDE really took the lead in bending  
18 over backwards to include schools, give them as  
19 many opportunities as possible to submit material  
20 even when it was late.

21                I doubt that it was -- I don't know that

1 we were informed every time a school -- I'm sure we  
2 were not informed every time a school missed a  
3 deadline, and -- and a few times M -- MSDE did ask  
4 us if we were -- if it was acceptable to us for  
5 them to continue to extend deadlines past what we  
6 had originally set, and, in general, we -- we also  
7 took the position that the goal was to get as many  
8 scholarships to as many kids that wanted them and  
9 could qualify as possible.

10 So, there were various times that  
11 eligibility issues came before us having to do with  
12 compliance, so this followed that concept of  
13 compliance, and once -- once there was an issue  
14 raised about whether schools were in compliance  
15 with the assurances that they had signed, then it  
16 became an issue that the BOOST Advisory Board had  
17 to consider.

18 You are on mute.

19 Q. I'm going to drop Exhibit 31 into your  
20 folder, and go ahead and pull that up whenever  
21 you --

1 A. I have it up.

2 Q. Okay. This is marked as Exhibit 31.  
3 It's Plaintiff's MPI Exhibit 2 with a Bates number  
4 of 00 -- starting in 0058. Do you see that?

5 A. Yeah, I see it.

6 Q. Okay. The -- this appears to be a copy  
7 of House Bill 150 from the Fiscal Year 2018, which  
8 would have been the Budget Bill; is that correct?

9 A. Correct.

10 Q. Okay. If you roll on down to page -- it  
11 would have page 136 at the bottom, with a Bates  
12 stamp at the top of 0061, you'll see the  
13 language --

14 A. Yes.

15 Q. -- for the BOOST Program, do you see  
16 that?

17 A. Yes.

18 Q. Okay. Do you see that it says, The  
19 Maryland State Department of Education shall  
20 administer the grant program in accordance with the  
21 following guidelines?

1 A. Yes.

2 Q. Okay. Do you see that one of the  
3 guidelines is -- says that to be eligible to  
4 participate in the BOOST Program, a nonpublic  
5 school must?

6 A. Yes.

7 Q. Okay. And then do you see that in  
8 the -- after must, it gives an alphabetical list  
9 (a) through (d) of requirements for nonpublic  
10 schools to follow? Do you see that?

11 A. Yes.

12 Q. Okay. Do you see that letter (d)  
13 includes the nondiscrimination requirement?

14 A. Yes.

15 Q. Okay. So, that is subsection 1. If you  
16 keep going down, you'll see eventually subsection  
17 5, do you see that?

18 A. Yes.

19 Q. Okay. Do you see that subsection 5  
20 establishes the BOOST Board?

21 A. Yes.

1 Q. Okay. Do you see -- what does subsection  
2 6 say? Go ahead and read that for me, please.

3 (Whereupon, there was a pause for  
4 document examination.)

5 THE WITNESS: The BOOST Advisory Board  
6 shall review and certify the ranked list of  
7 applicants and shall determine the scholarship  
8 award amounts.

9 BY MR. SCHMITT:

10 Q. Okay. Go ahead and take a look  
11 through -- through there. Do you see any other  
12 responsibilities for the BOOST Board?

13 (Whereupon, there was a pause for  
14 document examination.)

15 THE WITNESS: On a cursory review, I  
16 don't see any other reference to the BOOST Board.

17 BY MR. SCHMITT:

18 Q. Okay. So, the only authorities or I  
19 guess the only responsibilities that the statute  
20 puts on the BOOST Board are ranking a list of  
21 applicants and determining their scholarship award

1 amounts; is that correct?

2 MR. FINE: Objection. Form.

3 THE WITNESS: Correct.

4 BY MR. SCHMITT:

5 Q. Okay. So, there's no statutory language  
6 suggesting that the BOOST Board should determine  
7 compliance with the nondiscrimination requirements?

8 MR. FINE: Objection. Form.

9 THE WITNESS: I don't see anything here  
10 in my -- in -- in the review I just made.

11 BY MR. SCHMITT:

12 Q. Okay. I'm going to pull up -- we looked  
13 at that one. Sorry.

14 Actually, if we can go back to that. I'm  
15 sorry. And if you roll down to -- again, this is  
16 Exhibit 31. If you roll down to page 137 which has  
17 a Bates stamp of 0062 --

18 A. Um-hum. Yeah.

19 Q. -- and looking, again, at subsection (d)  
20 which is the nondiscrimination requirement and some  
21 other provisions to the statute, do you see that it



1 says, Nothing herein shall require any school or  
2 institution to adopt any rule, regulation, or  
3 policy that conflicts with its religious or moral  
4 teachings?

5 A. Yes.

6 Q. What does that mean?

7 A. You can't require any school to adopt a  
8 policy in conflict with its religious policies or  
9 teachings.

10 Q. Okay. So, if a school has a religious  
11 belief that women should wear long skirts and that  
12 men should wear knickers, something like that and  
13 they -- they want to participate in BOOST, but  
14 under the current law, it includes gender identity,  
15 do they have to allow a student to identify as the  
16 opposite sex to wear something that's outside of  
17 their school's dress code?

18 A. So, are we talking about Fiscal Year  
19 2018?

20 Q. We're talking -- I -- I believe this  
21 provision is in the current version of the law,

1 too. I can pull up that other exhibit if we -- if  
2 you'd prefer.

3 A. No. I'm just -- 2018 didn't include the  
4 gender question. That's why I was asking.

5 Q. Right, right, right.

6 A. It appears that in order to participate  
7 in the BOOST Program if a school requires  
8 gender-specific clothing and the school would not  
9 allow a student to identify with -- with a  
10 non-biologically assigned gender to wear the  
11 clothing of the non-biologically assigned gender  
12 that that could be deemed to be discriminatory and,  
13 therefore, the school might have to voluntarily  
14 pull out of BOOST.

15 Q. Okay.

16 A. But let me just be clear. Our  
17 understanding is they have to have a policy. If  
18 there's no -- that -- that this -- they don't have  
19 to have to a policy that is -- if there's a policy  
20 that is in conflict, it's a problem.

21 I'm not -- you know, if there's no

1 policy, I'm not sure that that's, you know, just  
2 out there in La-La Land and that that's not even an  
3 issue.

4 Q. Okay. What about a policy belief? So,  
5 let's say that the school requires all students to  
6 believe that they are created in the image and  
7 likeness of God as male or female and that it  
8 corresponds with their biological sex and they have  
9 a student who is -- identifies as transgender, does  
10 the school have to abandon their policy that all  
11 students accept that religious belief?

12 MR. FINE: Objection. Form.

13 THE WITNESS: I don't think -- I'm -- I'm  
14 not sure that what you've described is a  
15 discriminatory belief.

16 BY MR. SCHMITT:

17 Q. So, there are -- are you familiar with  
18 the idea of covenant schools?

19 A. No.

20 Q. Okay. So, I'm not -- I'm Catholic, so we  
21 don't typically have covenant schools in

1 Catholicism, and I don't -- I don't know -- you  
2 mentioned that you were involved in Jewish  
3 education. I don't know if any of the Jewish  
4 schools have a similar thing, but basically, these  
5 are schools that identify along sectarian lines or  
6 religious lines, and so they're -- they only enroll  
7 students of a particular faith, right.

8 So -- so, you know, it might be  
9 for -- let's just use a Jewish example. It might  
10 be that the school only enrolls Jewish students,  
11 right. I don't know, or in the Christian context,  
12 it would be like, you know, of our particular sect  
13 of Christianity, we only enroll people who are in  
14 covenant with us, meaning like you are a member of  
15 our church and all -- all above that.

16 So, if I'm a covenant school and  
17 everybody has to, you know, be a part of my  
18 religious community, if I had a policy that you had  
19 to uphold the beliefs of the -- the religious  
20 community, whatever it may be, in order to be  
21 admitted and retained at the school and one of the

1 beliefs was of, based on Genesis that man is  
2 created in the image and likeness of God as male  
3 and female, how would -- how does that square with  
4 a student who doesn't believe that they're created  
5 male or female?

6 MR. FINE: Objection. Form.

7 THE WITNESS: Yeah. So -- so, first of  
8 all, I'm not sure that -- I'd have to pull out a  
9 Bible to know it, and everybody interprets that  
10 statement that same way, because I know that the  
11 Jewish belief has multiple assigned different  
12 gender, so to speak, to God in different  
13 situations, so I'm not sure if that's always a  
14 correct statement, but the problem is with  
15 translation sometimes.

16 I don't know how these roles need to be  
17 applied to -- specifically you brought up the  
18 question of a single-sex school. I don't -- I  
19 don't practice education law, and so I don't know  
20 when a school -- you know, where the line is drawn  
21 between saying we're an all-girls' school and,

1       therefore, this is what we do, and similarly, I  
2       don't know how it applies to a school that says, we  
3       only accept children of a certain religious  
4       affiliation. So, I can't answer your question  
5       because I don't know if there are other exceptions  
6       or exemptions in those situations.

7       BY MR. SCHMITT:

8           Q.     Okay. Let's go to another one, and I'm  
9       not -- I'm asking these questions because I  
10      legitimately don't know what the policy means, so  
11      that's -- that's why I'm asking, I'm asking is to  
12      try to understand, because I have a school who  
13      would like to be back in the program and they don't  
14      know how to comply with the law, right. So, let's  
15      see here.

16                I'm going to drop Exhibit 17 into your  
17      folder. This may not be marked, but it was marked  
18      previously. And I -- yeah. This was previously  
19      marked Exhibit 17, so that's what we'll call it  
20      here.

21           A.     Okay. I have it.

1 Q. And do you see it's dated August 8th,  
2 2018, and it's on MSDE letterhead?

3 A. Yes.

4 Q. Do you see that it's Bates stamped BETHEL  
5 DEFENDANTS1434?

6 A. Yes.

7 Q. Do you see -- could you tell me -- just  
8 read the first paragraph in the quoted language, in  
9 the language that it quotes, please.

10 A. Bethel Christian Academy supports the  
11 Biblical view of marriage defined as a covenant  
12 between one man and one woman and that God  
13 immutably bestows gender upon each person at birth  
14 as male or female to reflect His image. Genesis  
15 127, Genesis 223-24. Therefore, faculty, staff,  
16 and student conduct is expected to align with its  
17 view. Faculty, staff, and students are required to  
18 identify with, dress in accordance with, and use  
19 the facilities associated with their biological  
20 gender.

21 Q. Okay. And this is -- I should have asked

1 this before. Is this a letter from Matt Gallagher  
2 to Claire Dant at Bethel?

3 A. Yes.

4 Q. And what was it about this language  
5 that -- that Matt was telling Claire? I guess I  
6 was trying to have you read this portion up at the  
7 top before the quoted stuff, but I may have  
8 misspoke.

9 A. Sorry, I thought you asked me to read the  
10 quoted section.

11 Q. And I think I screwed that up. Sorry.  
12 Go ahead.

13 A. Okay. The -- I -- the letter says  
14 that -- it's after that June 21st meeting informing  
15 Bethel that its language would deem to be in  
16 violation of the nondiscrimination clause.

17 Q. Okay. And then it lists the language  
18 that you just read that was given as an example of  
19 what violated the law, correct?

20 A. Correct.

21 Q. Okay. And do you see that it says the



1 board concluded that a handbook recipient may  
2 reasonably view this statement on its face as a  
3 prohibition on students with a non-heterosexual  
4 identity because it expects all students to align  
5 their conduct to the view of marriage as a covenant  
6 between one man and one woman?

7 A. Yes.

8 Q. And then do you see there's a bulleted  
9 list of five points that starts on the first page  
10 and spills into the second page?

11 A. Yes.

12 Q. Go ahead and just read through those, if  
13 you haven't already.

14 (Whereupon, there was a pause for  
15 document examination.)

16 THE WITNESS: Yeah, I have.

17 BY MR. SCHMITT:

18 Q. Okay. Is that the analysis the board  
19 used?

20 A. I don't have an independent recollection,  
21 but it appears to have been.

1 Q. Okay. Did the BOOST Board have any  
2 evidence outside of the quoted section here? So,  
3 other than the quoted section of the handbook, was  
4 there any other reason that the BOOST Board voted  
5 to expel Bethel from the program?

6 A. I -- I don't recall that there was any  
7 other information provided that was used in forming  
8 that determination.

9 Q. Okay.

10 A. But let me just -- as I say that, I think  
11 there were some letters from the school, but other  
12 than -- other than what you've pretty much  
13 presented that, the handbook language, the excerpt  
14 of the handbook, I don't believe that there was  
15 anything else.

16 Q. Right, right, right. I was actually  
17 going to stipulate that, that Bethel had provided  
18 follow-up and so on.

19 Was -- are you aware of or do you recall  
20 any evidence of a student being denied admission  
21 from a BOOST school on the basis of sexual

1 orientation?

2 A. To the contrary. I believe that we  
3 specifically did not ask for any such evidence.

4 Q. Okay. And so you're not aware that any  
5 student has actually been denied enrollment or  
6 admission to a school on that basis?

7 A. Correct.

8 Q. Are you aware of any allegation or  
9 evidence that any student has been denied  
10 enrollment or has been expelled from a school or  
11 been disciplined at a school on the basis of gender  
12 identity or expression? And when I say school, I  
13 mean a BOOST school.

14 A. I am not aware of anything.

15 Q. Okay. Elizabeth, are you aware or do you  
16 recall Bethel ever reapplying for BOOST later on?

17 A. I have no idea.

18 Q. Okay. So, you don't recall a Bethel  
19 application ever being presented to you  
20 subsequently?

21 A. I have no -- I have no such recollection,

1 and we aren't presented with applications, --

2 Q. Okay.

3 A. -- you know.

4 Q. Okay. I am going to -- let me  
5 double-check this. Yes.

6 I'm going to drop Exhibit 47 into your  
7 folder. Go ahead and take a minute to look at  
8 that.

9 (Whereupon, there was a pause for  
10 document examination.)

11 THE WITNESS: Okay.

12 BY MR. SCHMITT:

13 Q. Okay. Do you see that I've marked this  
14 Exhibit 47? It's BETHEL DEFENDANTS1788.

15 A. Yes.

16 Q. Do you recognize this document?

17 A. Not particularly.

18 Q. Okay. Have you seen anything like it  
19 before?

20 A. I -- I don't recall this -- this  
21 document. I just don't remember what we were

1 presented.

2 Q. Okay. Did you go through and look at the  
3 different schools listed in this document?

4 A. I looked at several of them.

5 Q. Okay. Do they appear to be the schools  
6 that got disqualified from the BOOST Program?

7 A. I'm familiar with some of the names. I'm  
8 not familiar with some of the other names, but --

9 Q. Okay.

10 A. -- if you said to me that this was the  
11 subset of schools that were identified as having  
12 potentially problematic language, I would accept  
13 that supposition. Well, and, quite frankly, at the  
14 very top, it says this is the language of  
15 disqualified schools, so --

16 Q. Let's see here. Did the BOOST Board ever  
17 delegate eligibility decisions to anybody else,  
18 either the MSDE or anything like that? I'm talking  
19 about the schools here.

20 A. Did -- did we -- I actually think it  
21 probably went the opposite direction. I -- I think

1 that MSDE determined eligibility, and when they had  
2 a question, they brought it to the BOOST Board.

3 Q. Okay. Okay. Okay. I think I'm going to  
4 do one more exhibit, and I think I'm wrapping up  
5 here. We can let you move on with your day.

6 Give me just a second though, because  
7 I -- I don't want to misnumber it. And I know we  
8 introduced something this morning, and we're doing  
9 a rolling number on exhibits. Okay. I think this  
10 should be Exhibit 111.

11 (Whereupon, Green Deposition Exhibit No.  
12 111, Email dated July 1, 2020, marked for  
13 identification.)

14 BY MR. SCHMITT:

15 Q. So, I'm going to number it as that. This  
16 should pop up in your folder. It might take a  
17 second because it's a larger file, and once you  
18 have got that, then pull it up.

19 A. Yes.

20 Q. And I'll share. Okay. Do you recognize  
21 this?

1           A.    Yes.  I don't -- I don't remember it.  I  
2   know that it looks like an email that's related to  
3   what I -- not -- I don't have an independent  
4   recollection of it, but --

5           Q.    Okay.  Has your firm ever been retained  
6   to do any legal work for or related to BOOST or the  
7   BOOST Program?

8           A.    No, not to my knowledge.

9           Q.    Okay.  And the only reason I ask -- I  
10   don't want to get into any privileged information  
11   or anything, so I just wanted to double-check.

12                   And so has Leslie Stellman ever been  
13   retained to do anything for the BOOST regarding  
14   handbooks or anything like that?

15           A.    Not to my knowledge.

16           Q.    Okay.  Would you go down to what's -- if  
17   I represented to you that these are -- this is  
18   Defendants' production labeled BETHEL-GREEN, and  
19   then --

20           A.    Um-hum.

21           Q.    -- do these all look familiar, like

1 documents you would have produced for discovery?

2 A. Yes.

3 Q. Okay. If I could have you go down to  
4 what is labeled as BETHEL DEFENDANTS028. It would  
5 be page 28 of the document.

6 A. Yes.

7 Q. Okay. Do you recognize that email?

8 A. Again, it appears to be an email from Les  
9 Stellman to me.

10 Q. Um-hum. And he's copying Ed O'Meally?

11 A. Yes.

12 Q. Who is -- who is Les Stellman?

13 A. Les Stellman was a partner at Pessin Katz  
14 and practicing in the education and labor  
15 employment group. He retired recently.

16 Q. Okay. And if you go down to  
17 BETHEL-GREEN33, 033, there -- this -- he's  
18 forwarding what looks to be like an email with a  
19 collection of newspaper headlines, news story  
20 headlines.

21 A. Um-hum.



1 Q. Do you see one that says, Judge rules in  
2 favor of Bethel Christian Academy in school voucher  
3 case?

4 A. Yes.

5 Q. Okay. So, if you go up to Les's email on  
6 BETHEL-GREEN0028, it says, The Judge denied the  
7 Motion to Dismiss the case against BOOST. See the  
8 story about the Bethel case. Is that the story  
9 he's referring to?

10 A. Yes, it appears to be.

11 Q. Then he says, This is a real blow  
12 to -- to the program and Liz Kameen's strategy.  
13 What was Liz Kameen's strategy?

14 A. I have no idea.

15 MR. FINE: Objection to the form.

16 BY MR. SCHMITT:

17 Q. You don't know what he was talking about?

18 A. I have no idea what he meant by Liz  
19 Kameen's strategy.

20 Q. Okay. Perhaps Liz's strategy was to win  
21 on the Motion to Dismiss.

1           If you go down to BETHEL-GREEN039, it  
2           would be at the almost very bottom, Elizabeth, like  
3           the second -- I think it's the second to the last.

4           A.    Yes.

5           Q.    Okay. Do you see this document? Do you  
6           recognize this email?

7           A.    Again, I don't have an independent  
8           recollection, but, I mean, I -- I have a -- a vague  
9           recollection of receiving an email like this from  
10          Rabbi Sadwin.

11          Q.    Okay. So, is this an email from August  
12          7th, 2019 from Rabbi Sadwin and you're copied on  
13          it?

14          A.    Yes.

15          Q.    Okay. What's going on in this email?

16          A.    So, separate and apart from my role on  
17          the BOOST Advisory Committee, I'm very involved  
18          with various Jewish day schools indirectly and  
19          directly, and so Rabbi Sadwin copied me.

20                I think at the time, I was the first  
21          vice-president of the school, the president, and

1 then it was sent directly to the school  
2 administrator and director of development.

3 It was sent in response to or in trying  
4 to assist the schools in determining whether they  
5 could complete the assurances once the gender  
6 identity language was added to the Bill or whether  
7 the schools would need to drop out of the program.

8 Q. Why would the schools need to drop out of  
9 the program?

10 A. There was a concern about whether a  
11 statement with regard to -- whether the schools  
12 would be able to make a statement that they would  
13 not discriminate based on gender identity based on  
14 interpretations of Jewish law.

15 Q. Okay. And what -- what particular  
16 aspects of Jewish law were of concern?

17 A. I'm not a rabbi.

18 Q. I did take Talmudic law in law school,  
19 but I didn't -- we didn't get into that. Okay.

20 Do you know generally what the concern  
21 was with respect to gender identity?

1           A.     The concern was could a -- could  
2     a -- could an Orthodox Jewish day school make a  
3     statement that it would not discriminate based on  
4     gender identity? Or said differently,  
5     whether -- well, that was the initial question, and  
6     then the -- yeah, and -- and then it went -- I  
7     mean, there -- there is -- I mean, I don't -- I  
8     don't know that there is any Jewish day school that  
9     has a policy on gender identity or nursery or day  
10    school that has a policy with regard to Jewish, to  
11    gender identity, so it was really on the issue of  
12    first impression.

13                 And so the question was whether it would  
14    be problematic, and this is Rabbi Sadwin  
15    representing the Agudath Israel of Maryland giving  
16    guidance to one school as to how the school could  
17    truthfully respond to the assurances.

18           Q.     Do any of the Jewish -- are any of the  
19    Jewish day schools sex specific to all male or all  
20    female?

21           A.     The vast majority are.

1 Q. And so if a transgender student applied  
2 to any of the vast majority of those schools, would  
3 they have to let that student in?

4 MR. FINE: Objection. Form.

5 BY MR. SCHMITT:

6 Q. Say, in BOOST?

7 MR. FINE: Objection. Form.

8 THE WITNESS: As I said, I don't believe  
9 that they consider -- that they have policies, and  
10 so in order to participate in the BOOST Program,  
11 yes, they would need to admit that student, but I  
12 don't know if there are policies on that.

13 BY MR. SCHMITT:

14 Q. Do any of the Jewish day schools, to your  
15 knowledge, have uniform requirements?

16 A. Yes.

17 Q. Do you know whether -- or strike that.

18 Are those uniform requirements considered  
19 school policies?

20 A. I guess so.

21 Q. Did you advise anyone, maybe Rabbi Sadwin

1 or anyone else, on -- on how to navigate the gender  
2 identity provision when it came on board?

3 A. I did not. No, I did not.

4 Q. Why are you copied -- why are you copied  
5 on this email?

6 A. As I stated, I was the first  
7 vice-president of the board of Agudath Israel at  
8 the time, and it was sent to the executive  
9 direct -- or the school administrator, the director  
10 of development, the president and the first  
11 vice-president.

12 Q. Have you ever recused yourself in any  
13 capacity in any of your roles with any of those  
14 organizations?

15 A. Not to the best of my recollection.

16 Q. Did the BOOST Board ever discuss the  
17 gender identity provisions and nondiscrimination  
18 requirement after it was adopted by the General  
19 Assembly?

20 A. Of course we discussed it.

21 Q. Did the BOOST Board -- how did the BOOST

1 Board ensure that the schools participating were  
2 complying with the provision after it was adopted?

3 A. As I believe I said previously, the BOOST  
4 Board did not -- we did not review individual  
5 applications.

6 In -- in general, what's presented to the  
7 BOOST Board is, we just get numbers. We  
8 don't -- we don't even get -- we don't get names.  
9 We don't get, you know, an identifying number, you  
10 know, numbers that are to, you know, keep a kid's  
11 name out, but have some sort of identification. We  
12 don't receive much information with regard to what  
13 schools are included really until some point after  
14 the awards has been made and the -- we get close to  
15 the reporting requirement.

16 At some point, we start -- I -- we've  
17 been provided with something that gives us a list  
18 of schools that are included in that year that  
19 are -- that have -- not that were eligible, but  
20 that had students with -- who were awarded  
21 scholarships.

1           The only time that the issue came up  
2           about reviewing eligibility is if it, we wouldn't  
3           have any cause, any time to look at it unless it  
4           was presented to us.

5           Q.    Do you see in this letter Rabbi Sadwin  
6           mentions in -- in one, two, the third paragraph, he  
7           says it mentions ensuring that our Torah values are  
8           upheld and respected?

9           A.    Yes.

10          Q.    What are the Torah values he's referring  
11          to?

12          MR. FINE:  Objection.  Form.

13          THE WITNESS:  I'm not the author, so I  
14          don't know precisely what it is to which he's  
15          referring.

16          BY MR. SCHMITT:

17          Q.    Okay.  If we go back up to BETHEL  
18          DEFENDANTS028, you said that Les Stellman  
19          was -- is a retired partner from the firm.  How did  
20          he know Liz Kameen?

21          A.    So, as I said, Les Stellman -- and I



1 don't believe I said this, but also Ed O'Meally are  
2 members of our education, or were members, was and  
3 is members of our education, labor and employment  
4 group.

5 As members of our education group, Les  
6 had worked with Liz Kameen in various capacities in  
7 connection with work they had done representing  
8 clients.

9 Q. And he says here, by the way, Liz is  
10 retiring, so she must have conveyed that to him?

11 A. She must have.

12 Q. Sorry. There's one more thing I was  
13 going to ask about, and I'm trying to find it here.

14 (Whereupon, there was a pause for  
15 document examination.)

16 BY MR. SCHMITT:

17 Q. Do you see this email on BETHEL  
18 DEFENDANTS012?

19 A. Yes.

20 Q. I'm going to butcher this, so my  
21 apologies in advance for my ignorance. This is an

1 email from Rabbi Sadwin -- or, excuse me, from  
2 Rabbi Sadwin to Agudah Maryland, correct?

3 A. That's how it's written; yes.

4 Q. Is that -- is that like a distribution  
5 list?

6 A. It's a distribution; yes.

7 Q. Okay. Are you on that distribution list?

8 A. Apparently, I am.

9 Q. Well, the other possibility would be that  
10 you were blind copied, so that's why -- that's why  
11 I asked.

12 A. No. I suspect that I'm on that  
13 distribution list and -- from the fact at the very  
14 top, it says attention. I mean, I -- I receive  
15 emails from him in various capacities.

16 So, you know, this says, Attention:  
17 Jewish Day School Administrators, which suggests  
18 that this particular distribution list had to do  
19 with the schools.

20 Q. Okay. By the way, did I get that right,  
21 is it Agudah?

1           A.     That's -- that's one way you can  
2 pronounce it; yes.

3           Q.     Okay.  Sorry.

4           A.     That's the non-Hebrew way of pronouncing  
5 it.

6           Q.     Okay.  Okay.  And do you -- have you seen  
7 this email before?  Does it look familiar to you?

8           A.     It -- it -- it looks somewhat familiar,  
9 but I don't have a -- a clear recollection of this  
10 email.

11          Q.     Okay.  And so it says -- it's  
12 giving -- is this email giving them guidance on how  
13 to navigate the BOOST law with respect to gender  
14 identity and expression?

15                 MR. FINE:  Objection.  Form.

16                 THE WITNESS:  That's what it appears to  
17 be doing; yes.

18                 BY MR. SCHMITT:

19           Q.     I'm not going to pronounce this bolded  
20 sentence at the bottom, the -- you know, the Torah  
21 I can get.  The second thing I'm going to get that

1 totally wrong. How should I say that?

2 A. I would say the Shulchan Aruch, but don't  
3 even worry. I know what you're talking about.

4 Q. Okay. So, what is the Shulchan Aruch?

5 A. So, the -- the Shulchan Aruch is a  
6 writing that provides guidance on -- it's  
7 interpretation and guidance of how to apply the  
8 laws that are -- that are in the Torah.

9 Q. Um-hum. Okay. When it says Torah here,  
10 is it limited to what I would call the Pentateuch  
11 or does it mean it in the more global sense, like  
12 beyond the first five books of the Bible?

13 A. That's a great question. When we talk  
14 about Torah law, I think we probably mean something  
15 much broader.

16 Q. Okay. I thought that was probably right,  
17 but I just -- I didn't know.

18 A. It's a good question.

19 Q. Is it correct that Rabbi Sadwin advised  
20 and he says, Following the guidance of rabbinic  
21 leadership, that schools may sign the assurance

1 without the need to include any disclaimer,  
2 provided that their handbook language contains  
3 language that reflects adherence to the Torah law.  
4 And then --

5 A. Yes.

6 Q. -- that bolded section that we just  
7 covered was an example of -- of what that would be;  
8 is that correct?

9 A. That's a sample that he provided; yes.

10 Q. Okay. And this type of statement that  
11 students are expected to live their lives according  
12 to the Torah would not violate BOOST in your  
13 opinion, the BOOST nondiscrimination requirement?

14 A. So, you had asked a question previously  
15 with regard to gender identity and the Jewish day  
16 school. I don't know how -- how the Torah's view  
17 of -- really even how the Torah views gender  
18 identity issues.

19 I'm just not -- I don't -- I don't know,  
20 and I also don't know whether certain issues would  
21 be deemed discriminatory or not, so that statement

1 would not be a statement that even I, as someone  
2 who understands a little bit more of what goes on  
3 underneath, would view as in conflict with BOOST,  
4 because I don't -- I don't -- there's nothing in  
5 that statement that says that it would have to  
6 conflict with BOOST.

7 Q. Okay. For orthodox or ultra-orthodox  
8 communities, would any of their understandings of  
9 the Torah conflict with the sexual orientation  
10 nondiscrimination requirement in BOOST?

11 MR. FINE: Objection. Form.

12 THE WITNESS: So, first of -- so, first  
13 of all, I can't speak for all, but because, in  
14 general, the common -- commonly accepted is that  
15 there is no prohibition on being homosexual.

16 So, someone who is would be admitted,  
17 assuming that they're -- that they are able to  
18 follow the other aspect of Torah law that, to which  
19 the school adheres.

20 BY MR. SCHMITT:

21 Q. Okay. So, do you see the paragraph a

1 couple -- a couple paragraphs up? It says, As long  
2 as the admissions policy contained in your school's  
3 handbook does not contain language that explicitly  
4 conflicts with the items and classes that are  
5 contained in the nondiscrimination paragraph of the  
6 assurance, there's no violation of the program  
7 rules. Do you understand that to be a correct  
8 interpretation of BOOST policy?

9 MR. FINE: Objection. Form.

10 THE WITNESS: I -- I -- I haven't really  
11 analyzed it, and I wasn't consulted on crafting  
12 that language. I do believe that that -- that that  
13 probably is a correct statement.

14 BY MR. SCHMITT:

15 Q. Let me look. I think that might be it  
16 for me.

17 Would a statement in a school's handbook  
18 where it says all students are expected to align  
19 their conduct with biblical principles conflicts  
20 with BOOST law?

21 MR. FINE: Objection. Form.

1 THE WITNESS: That broadly?

2 BY MR. SCHMITT:

3 Q. Let's -- and let's say even specifically  
4 it -- it tied it to -- it's a conduct requirement,  
5 and it is placed in proximity to admissions. So,  
6 let's say, you know, we reserve the right to --

7 A. I --

8 Q. Go ahead. I'm sorry.

9 A. Right. I can't interpret for a school  
10 what biblical principles mean. I think that it's  
11 different for every prob- -- I mean, certainly for  
12 Jewish day schools, it could be different for every  
13 single Jewish day school, so I don't -- since I  
14 can't interpret what that means, it would not be  
15 problematic.

16 Q. Okay. Would you -- would you as a BOOST  
17 Board member require further information from a  
18 school that had that provision?

19 A. I personally wouldn't ask for anything  
20 more.

21 Q. Okay.



1 MR. SCHMITT: I think I'm done. I don't  
2 know if Justin has anything for you.

3 MR. FINE: No, I have no cross.

4 MR. SCHMITT: Okay. I think we can go  
5 off the record.

6 THE VIDEOGRAPHER: Okay. This concludes  
7 today's video-recorded deposition. Off the video  
8 record at 4:08 p.m.

9 (Whereupon, the deposition of Elizabeth  
10 Green was concluded at 4:08 p.m., and the reading  
11 and signing of the transcript was not waived.)

12

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1 State of Maryland

2 County of Baltimore, to wit:

3 I, Michele D. Lambie, a Notary Public of  
4 the State of Maryland, County of Baltimore, do  
5 hereby certify that the within-named witness  
6 personally appeared before me at the time and place  
7 herein set out, and after having been duly sworn by  
8 me, according to law, was examined by counsel.

9 I further certify that the examination  
10 was recorded stenographically by me and this  
11 transcript is a true record of the proceedings.

12 I further certify that I am not of  
13 counsel to any of the parties, nor related to any  
14 of the parties, nor in any way interested in the  
15 outcome of this action.

16 As witness my hand and notarial seal this  
17 12th day of May 2021.

18 

19 Michele D. Lambie  
20  
21

1 Justin Fine, Esquire  
2 Jfine@aog.state.md.us

3 May 12, 2021

4 RE: Bethel Ministries, Inc. v. Salmon, Karen Et Al.  
5 4/29/2021, Elizabeth Green (#4551827)

6 The above-referenced transcript is available for  
7 review.

8 Within the applicable timeframe, the witness should  
9 read the testimony to verify its accuracy. If there are  
10 any changes, the witness should note those with the  
11 reason, on the attached Errata Sheet.

12 The witness should sign the Acknowledgment of  
13 Deponent and Errata and return to the deposing attorney.  
14 Copies should be sent to all counsel, and to Veritext at  
15 cs-midatlantic@veritext.com

16  
17 Return completed errata within 30 days from  
18 receipt of testimony.

19 If the witness fails to do so within the time  
20 allotted, the transcript may be used as if signed.

21

22 Yours,

23 Veritext Legal Solutions

24

25

1 Bethel Ministries, Inc. v. Salmon, Karen Et Al.

2 Elizabeth Green (#4551827)

3 E R R A T A S H E E T

4 PAGE \_\_\_\_\_ LINE \_\_\_\_\_ CHANGE \_\_\_\_\_

5 \_\_\_\_\_

6 REASON \_\_\_\_\_

7 PAGE \_\_\_\_\_ LINE \_\_\_\_\_ CHANGE \_\_\_\_\_

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9 REASON \_\_\_\_\_

10 PAGE \_\_\_\_\_ LINE \_\_\_\_\_ CHANGE \_\_\_\_\_

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12 REASON \_\_\_\_\_

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15 REASON \_\_\_\_\_

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18 REASON \_\_\_\_\_

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21 REASON \_\_\_\_\_

22 \_\_\_\_\_

23 \_\_\_\_\_

24 Elizabeth Green

Date

25

1 Bethel Ministries, Inc. v. Salmon, Karen Et Al.

2 Elizabeth Green (#4551827)

3 ACKNOWLEDGEMENT OF DEPONENT

4 I, Elizabeth Green, do hereby declare that I  
5 have read the foregoing transcript, I have made any  
6 corrections, additions, or changes I deemed necessary as  
7 noted above to be appended hereto, and that the same is  
8 a true, correct and complete transcript of the testimony  
9 given by me.

10

11

\_\_\_\_\_

\_\_\_\_\_

12 Elizabeth Green

Date

13 \*If notary is required

14 SUBSCRIBED AND SWORN TO BEFORE ME THIS

15 \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.

16

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19 NOTARY PUBLIC

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[&amp; - admit]

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[admitted - based]

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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 28**



Deposition of:  
**A. Skipp Sanders**

*April 29, 2021*

In the Matter of:

**Bethel Ministries, Inc vs Salmon, et al**

Veritext Legal Solutions

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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 A. SKIPP SANDERS, Ed.D., was taken on Thursday, April 29, 2021, commencing at 9:31 a.m., at 8 Kittridge Court, Randallstown, Maryland, before Michele D. Lambie, RPR, a Notary Public.

Reported By: Michele D. Lambie, RPR-CSR

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19

20 ALSO PRESENT: Eliza Spikes - Videographer

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EXAMINATION INDEX

A. SKIPP SANDERS, Ed.D.

BY MR. REED

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1 P R O C E E D I N G S

2 THE COURT REPORTER: The attorneys  
3 participating in this deposition acknowledge that I  
4 am not physically present in the deposition room,  
5 and that I will be reporting this deposition  
6 remotely.

7 They further acknowledge that in lieu of  
8 an oath administered in person, I will administer  
9 the oath remotely.

10 The parties further agree that if the  
11 witness is testifying from a state where I am not a  
12 Notary, that the witness may be sworn in by an  
13 Notary.

14 If any party has an objection to this  
15 manner of reporting, please state now.

16 (No response.)

17 THE COURT REPORTER: Hearing none, we can  
18 proceed.

19 THE VIDEOGRAPHER: Good morning. We are  
20 going on the video record at 9:31 a.m. on Thursday,  
21 April 29th, 2021.



1           This is media unit number one in the  
2 video-recorded deposition of Dr. A. Skipp Sanders  
3 in the matter of Bethel Ministries, Inc. vs.  
4 Salmon, et al. filed in the Circuit -- filed in the  
5 United States District Court for the District of  
6 Maryland, Northern Division, Case Number  
7 1:19-cv-01853.

8           This deposition is being held via Zoom.  
9 My name is Eliza Spikes from the firm Veritext, and  
10 I am the videographer. The court reporter today is  
11 Ms. Michele Lambie also from Veritext.

12           I am not authorized to administer the  
13 oath. I'm not related to any party in this action  
14 nor am I financially interested in the outcome.

15           Counsel and all present in the room and  
16 anyone attending remotely will now state their  
17 appearances and affiliations for the record.

18           If there are any objections to this  
19 proceeding, please state them at the time of your  
20 appearance, beginning with the noticing attorney.

21           MR. REED: Jacob Reed with Alliance

1 Defending Freedom for Plaintiff, Bethel Ministries,  
2 with Paul Schmitt observing.

3 MR. FINE: My name is Justin Fine,  
4 Assistant Attorney General for the State of  
5 Maryland. I represent the Defendants, and I will  
6 be defending Dr. Sanders today.

7 THE VIDEOGRAPHER: Will the Court  
8 Reporter please swear in the witness?

9 A. SKIPP SANDERS, Ed.D.,  
10 the Deponent, called for examination via Zoom by  
11 the Plaintiff, being first duly sworn to tell the  
12 truth, the whole truth, and nothing but the truth,  
13 testified as follows:

14 EXAMINATION

15 BY MR. REED:

16 Q. Good morning, sir. My name is, as I  
17 mentioned, Jacob Reed. I'm an attorney  
18 representing Bethel Ministries in this case. You  
19 can call me Jake. Feel free to do that.

20 So, with that said if -- throughout the  
21 course of this morning, if you need a break, coffee

1 break, restroom break or if something happens tech-  
2 -- with the technology, just let me know. There's  
3 no problem with that, or we're not really on a time  
4 constraint.

5 I don't see this going past lunch, so  
6 with that said, if you need anything, feel free to  
7 address me and bring it up, and we'll go from  
8 there.

9 With that said, is it -- is it okay to  
10 address you as Dr. Sanders?

11 A. Sure. You can call me Skipp if you want  
12 to.

13 Q. Okay. Great. Perfect. Good. So,  
14 before we kind of get into the nuts and bolts of  
15 the case here, just a couple of background things.

16 One being because this is over the  
17 computer, it's a little bit different than -- than  
18 normal. Normally we'd be, you know, in a  
19 conference room and sitting right across from each  
20 other, so there's a little bit of a delay, if you  
21 will, with how we do things.

1           You mentioned earlier, you know, how are  
2 you going to see exhibits if I show you? So, if I  
3 show you a document, I'll share my screen, and that  
4 way you can look at it, and with that said,  
5 if -- if -- if we're looking at a document and you  
6 need me to scroll through it or Zoom in on a  
7 certain section, just, you know, kind of direct me  
8 as to how you want me to do that.

9           I don't think there will be too many  
10 documents this morning, but, again, so I'll share  
11 my screen, and then you'll be able to see it.

12           And with that said when I do pull up a  
13 document, I'll kind of -- I have to identify the  
14 document, so, you know, the point is if someone is  
15 reading the transcript of this after the fact, they  
16 have to know which documents we're talking about,  
17 so I'll have to mark it an exhibit, and then  
18 there's usually a Bates stamp. So, there's a  
19 little bit of an introductory questionnaire for  
20 each document just so we can identify the document.  
21 So, you know, kind of bear with me as we go through

1 that process.

2 Okay. So, because we're doing this  
3 remotely and over the computer, I just have to ask  
4 you a few questions. Is there anyone in the room  
5 with you where you're at?

6 A. No.

7 Q. Okay. And -- and I'll just ask if anyone  
8 does come in the room for -- for any reason, just  
9 to -- to let me know, and the point is just, you  
10 know, your answers have to be your answers.  
11 There's no assistance or phone-a-friend option or  
12 anything like that.

13 And sort of along those lines, your  
14 computer screen that you're looking at, am I the  
15 only thing that you can see on your screen? Do you  
16 have email or anything else pulled up?

17 A. No, but I do have all of the other  
18 participants; Ms. Lambie --

19 Q. Right.

20 A. -- and Mr. Fine.

21 Q. Okay. So, you just have the -- the Zoom

1 application pulled up. That's -- that's fine.

2 Do you have any note pads or any notes in  
3 front of you or anything written down?

4 A. I do have one page of notes that I had  
5 taken from my meeting yesterday with Mr. Fine and  
6 some stuff that I had printed out when I was  
7 looking at the documents that had been sent to me  
8 thus far.

9 Q. Okay. And you -- you took those notes  
10 and printed those documents off in preparation for  
11 this deposition?

12 A. Yes, but I don't have to refer to them, I  
13 hope.

14 Q. Okay. Yeah, I would ask that you not  
15 refer to -- to the documents you printed off, and  
16 then your notes, if -- were those just  
17 recollections or things you -- you jotted down,  
18 again, preparing for this? I guess my question is,  
19 did you prepare them yesterday? Did you prepare  
20 them specifically for this deposition?

21 A. For the deposition, yes, but these were

1 notes that I took over a week ago when I first  
2 started reading stuff. And, Jake, you're breaking  
3 up sometimes. You freeze and then unfreeze.

4 Q. Yeah, I'm getting a little bit of that  
5 feedback from you as well. Yeah, if you can't hear  
6 me or -- because, again, that's the thing with the  
7 technology. There -- there will be interruptions.  
8 Just, you know, feel free to ask me to repeat a  
9 question or let me know, and we'll -- we'll bear  
10 with that.

11 Okay. That's fine. Okay. So,  
12 let's -- let me ask you a little bit about your  
13 background. Can you tell me about your educational  
14 background?

15 A. Yes. I'm a product of the Baltimore City  
16 Schools; graduated from City High School in 1959,  
17 the third cohort of African American students to  
18 graduate since Brown vs. Board of Ed from there.

19 I obtained my bachelor's from St. Mary's  
20 Seminary and University in 1964; bachelor's in  
21 philosophy, and also attended St. Mary's Seminary

1 and University Theology School, because I was  
2 preparing for the priesthood, and received a  
3 master's in theology from there 1969 or '70.

4 Q. Okay.

5 A. And then I --

6 Q. And you got your doctorate?

7 A. After teaching for a few years, I  
8 attended the University -- yes, I attended the  
9 University of Pennsylvania and received a doctorate  
10 in education in 1980.

11 Q. And then can you tell me your -- your  
12 career after, you can start from once you received  
13 your doctorate, where you worked and what you did?

14 A. Once I received the doctorate, I left  
15 classroom teaching and being an English department  
16 chair for the Baltimore City Schools and went to  
17 work for the state.

18 I held various positions beginning with a  
19 specialist in instructional television, moved on to  
20 training principals for the State Department of Ed  
21 in The Principals Academy Professional Development



1 Program. I was the director of that.

2 I was promoted to be the Executive  
3 Assistant to the State Board of Education. From  
4 there, I became the Assistant State Superintendent  
5 for Teacher Licensure and Teacher Preparation, and  
6 then in about 1991, Dr. Nancy Grasmick elevated me  
7 to be her Deputy State Superintendent. I was the  
8 first African American Deputy State Superintendent  
9 of Schools.

10 I retired in 2008 and for two years  
11 worked for the Archdiocese of Baltimore schools as  
12 an Associate Superintendent, then one year as an  
13 Adjunct Professor in the doctoral education program  
14 at Morgan State University, and then finally I  
15 spent four and a half years as the Executive  
16 Director of the Reginald F. Lewis Museum of  
17 Maryland African American History & Culture and  
18 retired from that position due to age and some  
19 health concerns.

20 Q. Okay. And when did -- and when did you  
21 retire from that position?

1 A. I retired in 2016.

2 Q. Okay. And have you been permanently  
3 retired pretty much since -- since then, apart  
4 from, you know, being --

5 A. Yes.

6 Q. -- on boards and whatnot? Okay.

7 A. That's correct.

8 Q. Okay. Good. That's quite an extensive  
9 career you've had it sounds like, so  
10 that's -- that's impressive.

11 Okay. So, let's -- let's talk about why  
12 we're here today. You're currently a sitting  
13 member of the BOOST Advisory Board, correct?

14 A. Yes.

15 Q. Okay. And, yeah, that's -- that's --  
16 just I'll mention this. So, Michele is taking down  
17 our words. She's the court reporter, so I'd just  
18 ask that you would try to be as verbal as possible.

19 She can't really take down shaking heads  
20 and nodding, so just yes or nos. Just it makes it  
21 easier for Michele is all, so okay.

1           And so tell me about how you were  
2 appointed to the BOOST Advisory Board.

3           A.    I believe my appointment came from two  
4 areas.   One would be my experience with Maryland  
5 State Department of Education; the second one being  
6 my time with the Archdiocese of Baltimore, because  
7 that's where a phone call came from asking if I  
8 would consider having my name submitted as a  
9 candidate for the BOOST Board.

10          Q.    Okay.   And -- and have you been a BOOST  
11 Board member since the inception of the BOOST  
12 Program?

13          A.    Yes.

14          Q.    Okay.   And that would have been in 2016,  
15 correct?

16          A.    Yes, if you say so.

17          Q.    Okay.

18          A.    Since the inception.

19          Q.    Yeah, that's --

20          A.    I -- I can't remember.

21          Q.    I believe that's the first year.   Okay.

1 Now, you mentioned a phone call which kind of led  
2 to your appointment. Can you tell me a little bit  
3 about that, who that was from and what that  
4 pertained to?

5 A. Yes. Her name escapes me totally right  
6 now. Mary Ellen, and I forget her -- I forget her  
7 last name, but she was the legislative liaison at  
8 that time for the Archdiocese, and we had a  
9 long-going friendship, and she knew my background,  
10 especially from appearances during legislative  
11 sessions. So, I think she probably is one of the  
12 people who raised my name as someone that -- you  
13 know, I don't know how people ultimately are  
14 selected, but I would imagine different  
15 constituents get the opportunity to recommend  
16 potential members or candidates.

17 Q. Sure. Sure. And I -- and I think, if  
18 I'm -- if I'm correct, the members are appointed by  
19 either the Governor's Office, the Speaker's Office  
20 or the President of the Senate's Office. Do you  
21 know which office had actually appointed you?

1           A.    I can't be certain.  I believe it was the  
2    President of the Senate, --

3           Q.    Okay.

4           A.    -- who at that time was Mr. Miller.

5           Q.    Okay.  All right.  Very good.  Okay.  So,  
6    tell me a little bit about the BOOST Program as far  
7    as you can remember during its, you know, inaugural  
8    year, the first year that it was up and running.  
9    Just tell me about how the board interacted, how  
10   the board operated, just a general kind of  
11   explanation of how the program commenced.

12          A.    I would say from its beginning, the  
13   members of the board were a very cooperative team  
14   with one another.  There was -- there were lots of  
15   discussions because the first year was mostly  
16   dealing with trying to establish policy for the  
17   operation of the BOOST Program, but there was never  
18   a time where there was any kind of rancor or, you  
19   know, strong disagreements.

20                   Differing opinions were listened to,  
21   discussed, and just about always we came to

1       amicable agreements on how we would go on just  
2       about everything, so, it -- it has never been  
3       anything but a -- a pleasant experience in terms of  
4       cooperating with and working with my fellow board  
5       members, and -- and I guess I would venture to say  
6       I think they would feel the same way.

7           Q.     Sorry about that.  So, how did -- when  
8       the BOOST Program was started, how -- how did the  
9       board go about finding schools that, you know, they  
10      thought would be willing to participate or would be  
11      ideal schools to participate?  Did -- did the  
12      board -- I guess my question is:  Did the board  
13      conduct a search?  Can you just tell me a little  
14      bit about that?

15           A.     As best I can.  The program's intent was  
16      to really make attendance at nonpublic schools  
17      possible for students who monetarily primarily, and  
18      maybe for academic reasons, would not be able to  
19      afford those kinds of schools.

20                    If these students also were from -- were  
21      minority students coming from poor-performing

1 schools, that made them even more ideal candidates  
2 to accept the monies from this program to attend  
3 nonpublic school.

4 I would imagine -- I -- I can't say I'm  
5 sure of this because there was no written thing,  
6 but it would seem to me that those of us who were  
7 on the board represented some of the parties that  
8 would -- would have a -- you know, a strong  
9 interest in it.

10 For instance, if my nomination was  
11 submitted from the Archdiocese, well, the  
12 Archdiocesan schools would certainly benefit to a  
13 great extent from this program.

14 The same thing with representatives on  
15 the board who came from the Jewish community, one  
16 representative who came from a nonpublic school,  
17 but I think it was the composition of the board  
18 that represented those various angles, including a  
19 board member who was on the State Board of  
20 Education and, therefore, represented public  
21 education.

1           That kind of mix also gave us the  
2           opportunity to really understand where each  
3           constituent was coming from in terms of perspective  
4           and what we needed to put together to have a  
5           smoothly running program that served the interest  
6           of the state and the Governor and then make these  
7           opportunities possible.

8           To the best of my knowledge, there wasn't  
9           any real direct advertising in that sense because  
10          the constituents -- the members of the board could  
11          go back to their constituents, and, you know, the  
12          word would get out that way.

13          Also, the General Assembly usually puts  
14          out a summary at the end of the legislative session  
15          of what was passed and what was not, so I think  
16          just in the normal means, word got around. And  
17          since some -- most of us represented some sort of  
18          school, it would get to, you know, the people who  
19          had recommended us, and they would move on from  
20          there to let people know this existed.

21          Q.     Okay.



1           A.     One key thing was making sure that school  
2 leaders, principals knew.

3           Q.     And did -- did the board -- did board  
4 members or yourself reach out to certain school  
5 principals and see if they would be interested in  
6 participating?

7           A.     I can't answer for other board members.  
8 I did not. I simply acted in my capacity as a  
9 member of the board, and also, I was retired, you  
10 know, so --

11          Q.     Okay. So, you mentioned the -- the  
12 composition of the board, you thought sort of it  
13 seems like at least they tried to draw from  
14 different sorts of schools or different  
15 constituencies, I think is the word you used, and  
16 am I correct that you thought you were a  
17 representative for the -- the Archdiocese in a  
18 sense that -- or not a representative, but that  
19 maybe your appointment, appointment was partly  
20 because you had prior employment which the -- with  
21 the Archdiocese?

1           A.    Yes, that's my belief.  However, once I  
2           was on the board, I was a board member really  
3           serving what the board was supposed to do and what  
4           the legislation said we were put together to do.  
5           So to that extent, I never acted as a sponsor or  
6           supporter for any specific school.

7           Q.    Right.  But would you -- would you  
8           at -- at a board meeting ever state, you know, I  
9           think this school might be a par- -- a possible  
10          participant, or this school might be interested in  
11          participating?  Would you recommend schools or  
12          bring them to the table?

13          A.    Never.  I never did that.  Also,  
14          there -- because it is a state board, all meetings  
15          were public, and so almost always representatives  
16          from different kinds of schools were seated around  
17          the board in the room, and to me, they -- they  
18          could do the things you mentioned, but that was not  
19          my role, to -- to sponsor or recommend or -- or put  
20          forth any school, any particular school.

21          Q.    Okay.  Okay.  So, let's -- let's talk

1 about the handbook review process I'll call it.

2 Does that -- do you recall the board -- let me back  
3 up.

4 Do you recall the board receiving a  
5 complaint about a certain school and their handbook  
6 language?

7 A. I recall the board receiving a complaint  
8 about one particular school and the handbook  
9 language, and then that led to a general discussion  
10 as to whether that was a unique problem or  
11 potentially a broader problem.

12 Q. Okay. Do you recall what school that  
13 was?

14 A. Trinity Lutheran Christian School, I  
15 think.

16 Q. Do you recall how that issue came to the  
17 board?

18 A. No, I don't recall that.

19 Q. Do -- do you recall a meeting in late  
20 2017 -- and I know it's been a few years, so to the  
21 best that you can -- where the Maryland Parent

1 Teacher Association brought that complaint to the  
2 board?

3 A. Jake, I have to be honest with you, I'm  
4 only aware of that because of what I read in  
5 preparation for this meeting. Outside of that, I  
6 would have told you, no, you know, that's not  
7 something I remember.

8 Q. Okay. And in -- and in preparing for  
9 this meeting, did -- when you were reviewing those  
10 documents, did that bring anything back to your  
11 memory that you thought, Oh, yeah, I remember -- I  
12 remember that or I recall that?

13 A. I do have a vague memory of that; yes.

14 Q. Can you just tell me a little bit about  
15 it, what you do remember?

16 A. At the end of the meeting -- and as I'm  
17 saying, this is very vague, so, you know --

18 Q. Sure.

19 A. -- I can't be certain, but at the end of  
20 the meeting, the chair of the board always allowed  
21 the public, who were in the room, to say something

1 if they wished to, and they would address the  
2 board. And I believe that that came up as, that  
3 part, an opportunity to respond to people who were  
4 in the room.

5 Q. Okay. And do you -- do you recall what  
6 the exact issue was with Trinity Lutheran's  
7 handbook? I mean, why -- why was this brought to  
8 the attention of the board? What was the issue I  
9 guess?

10 A. I can't recall that to be honest with  
11 you. That would only be from what I -- what I  
12 read, but I couldn't recall that now.

13 Q. Okay. Let's -- let's go past that  
14 meeting. So, then the board decided that it should  
15 start reviewing handbooks from all BOOST  
16 participating schools, correct?

17 A. Yes.

18 Q. Okay. And do you recall what the  
19 reasoning for that was?

20 A. What I recall is that conversation  
21 basically led to the realization that handbooks had

1 not really been scrutinized in any way from any  
2 applicant, and the general feeling was that if this  
3 one case was a concern, how do we know there were  
4 not other similar cases that, you know, would raise  
5 the same concern. So, that led to the -- the  
6 general agreement that the staff needed to look at  
7 handbooks to make sure that what the handbooks were  
8 saying was in compliance with the state regulation.

9 Q. Okay. So, you mentioned the concern.  
10 Was that the concern that the handbooks were  
11 noncompliant with, as you said, state regulations?

12 A. Yes.

13 Q. Okay. And -- and what -- what particular  
14 state regulations?

15 A. The one that had been raised by the State  
16 Teacher's Association in terms of the -- the  
17 language in state regulation that talks about  
18 nondiscrimination based on race, gender, sexual  
19 orientation, and so forth.

20 Q. Okay. So -- so, when the BOOST Board  
21 decided to review all handbooks, they were -- they

1 were concerned with those nondiscrimination  
2 regulations as you called it?

3 A. Yes, once that concern had been raised  
4 and there was a realization that handbooks, by and  
5 large, had not been really looked at or, you know,  
6 checked.

7 Q. Okay. Now, to the best that you can  
8 remember, when this started, which was the fall and  
9 early winter of 2017, did you know what the state  
10 regulation law -- do you know what the state law  
11 said with regards to BOOST? Had you looked at it?

12 A. No, I had not.

13 Q. Okay.

14 A. I was familiar with the state's general  
15 regulation policy because of my years serving with  
16 the State Board of Education.

17 Q. Okay. Did -- did you any time  
18 after -- after that, so after the board decided it  
19 needed to review handbooks, did you then go back  
20 and look at the state law that created the BOOST  
21 Program?

1           A.    I looked at the state law when the  
2           director from the Maryland State Department of  
3           Education would give us updates as to what changes  
4           were contemplated or what wording changes were  
5           contemplated when you went through legislative  
6           session.  That was all that I saw.

7           Q.    Okay.  So, you never on your own time  
8           pulled up the -- the law that created the BOOST  
9           Program and examined that for yourself as a BOOST  
10          Board member?

11          A.    No, not really.

12          Q.    Okay.  I'm going to pull up an exhibit  
13          here and share my screen, and, again, if you need  
14          me to, you know, zoom in or scroll, just -- just  
15          tell me.

16          A.    Okay.

17          Q.    And there's a little bit of a delay here  
18          because I have to mark it, so bear with me.  Okay.  
19          Can you see my screen here, Doctor?

20          A.    Yes, I can.

21          Q.    Okay.  And I've marked this Exhibit 31,



1 and it is Bates stamped 0058, which was Exhibit 2  
2 to Plaintiff's Motion for Preliminary Injunction  
3 and, again, that's just to identify the document.

4 Do you -- do you recognize this document?

5 A. I recognize it as something that the  
6 staff member, who -- Monica Kearns, you know, or  
7 whoever would succeed her, would share with us at  
8 the end of every legislative session.

9 Q. Okay. And this is labeled House Bill  
10 150, Budget Bill, Fiscal Year 2018, correct?

11 A. Yes, that's what it states.

12 Q. Okay. And I'll refer to this either as  
13 the Budget Bill or House Bill 150. Just so you  
14 know what I'm referring to, I'm talking about this  
15 document, and I'm going to scroll down, because  
16 this -- and I'll represent to you this is  
17 the -- the Budget Bill that created the BOOST  
18 Program, and so you mentioned regulations, and I  
19 think this is the document which speaks to that,  
20 and I'm on page -- it's Bates stamped 0061. Can  
21 you see right here where I'm highlighting?

1 A. Yes, I can.

2 Q. Okay. And that's -- that's labeled  
3 R00A03.05, and it's titled, Broadening Options and  
4 Opportunities for Students Today, correct?

5 A. Yes.

6 Q. So, why don't you take a minute and kind  
7 of read from where I've highlighted on down, and I  
8 can scroll down if you need me to, and take a look  
9 at the -- the lang- -- the BOOST law language, and  
10 then we can talk about it. So, just let me know if  
11 you need me to scroll, and let me know when you're  
12 done.

13 A. Okay. You can scroll a little, please.

14 (Whereupon, there was a pause for  
15 document examination.)

16 THE WITNESS: Okay. Could you scroll  
17 just a little bit, please?

18 (Whereupon, there was a pause for  
19 document examination.)

20 THE WITNESS: Would you scroll a little,  
21 please?

1 (Whereupon, there was a pause for  
2 document examination.)

3 THE WITNESS: Scroll, please.

4 (Whereupon, there was a pause for  
5 document examination.)

6 THE WITNESS: Scroll, please.

7 (Whereupon, there was a pause for  
8 document examination.)

9 THE WITNESS: Scroll, please.

10 (Whereupon, there was a pause for  
11 document examination.)

12 THE WITNESS: Scroll, please.

13 (Whereupon, there was a pause for  
14 document examination.)

15 BY MR. REED:

16 Q. And, Doctor, if it helps -- so, what  
17 we're going to talk about I don't think pertains to  
18 any of this, so -- so to save you from having to  
19 read the whole thing, if it's okay with you --

20 A. Okay.

21 Q. -- we can -- we can talk about it, okay?

1 A. It's definitely okay with me.

2 Q. Okay. Good. So, if I scroll back up  
3 here to page 136, it states, To be eligible to  
4 participate in the BOOST Program, a nonpublic  
5 school must and then it lists subsections (a), (b),  
6 (c), and (d).

7 A. Correct.

8 Q. Do you -- do you understand these  
9 subsections (a), (b), (c), and (d) to be the I  
10 think what you called regulations to participate in  
11 the BOOST Program?

12 A. I would say, yes, they are the conditions  
13 for participation. Yes.

14 Q. Okay. Now, would you mind for the  
15 record, just so it's clear, could you read this  
16 highlighted portion, which is subsection (d) where  
17 I have highlighted?

18 A. Yes. Comply with Title VI of the Civil  
19 Rights Act of 1964 as amended, Title 20, Subtitle 6  
20 of the State Government Article, and not  
21 discriminate in student admissions on the basis of

1 race, color, national origin, or sexual  
2 orientation. Nothing herein shall require any  
3 school or institution to adopt any rule,  
4 regulation, or policy that conflicts with its  
5 religious or moral teachings. However, all  
6 participating schools must agree -- and that's not  
7 highlighted from thereon.

8 Q. Yeah, that's okay. That's -- that's  
9 fine.

10 A. Okay.

11 Q. So, do you -- do you understand that or  
12 is it your understanding that this is the -- the  
13 language for which the BOOST Board decided it  
14 needed to review handbook language?

15 A. Yes, that's my understanding.

16 Q. Okay. Now, at the time when the BOOST  
17 Board decided that it was going to proceed to  
18 review handbooks from BOOST participating schools,  
19 were you aware that this provision which states,  
20 Nothing herein shall require any school or  
21 institution to adopt any rule, regulation, or

1 policy that conflicts with its moral -- with its  
2 religious and moral teachings, were you aware that  
3 that provision was in the -- in the BOOST law?

4 A. When we were given that information, we  
5 were aware of it because of that; yes.

6 Q. Okay. So, in -- the BOOST Board, and  
7 I'll just represent in -- in December of 2017  
8 through the Maryland State Department of Education  
9 requested all handbooks from BOOST participating  
10 schools; is that correct?

11 A. Yes.

12 Q. Okay. Now, when that request went out  
13 and schools submitted handbooks, then what  
14 happened? Where did they go? Who reviewed them?  
15 Can you just explain that to me?

16 A. The staff of the State Department of  
17 Education, who were people, you know, really  
18 working for the BOOST Board to make sure that  
19 everything was enabled, that staff reviewed the  
20 handbooks. Then that staff reported their findings  
21 to the board --

1 Q. Okay.

2 A. -- for those schools.

3 Q. So, did that -- did the staff make the  
4 determination whether a handbook complied with the  
5 nondiscrimination requirements or not?

6 A. I think the word determination is too  
7 strong. That's not exactly what the staff -- they  
8 reported their findings and what they thought could  
9 be schools with language that were of concern. I  
10 would say it better that way. Staff did not make  
11 the decision to the board and then present them to  
12 the board.

13 Q. So, did the board make the determination  
14 whether a school's handbook complied with the  
15 nondiscrimination requirements?

16 A. The board would get all of the  
17 information from the staff as to why that was seen  
18 as a potential concern. Then usually there would  
19 be a discussion. There might be some consultation  
20 with our attorney, and then the board made the  
21 decision.

1 Q. Okay. And -- and you stated the board  
2 would only receive a report from MSDE if language  
3 was of a concern or was flagged, correct?

4 MR. FINE: Objection. Mischaracterizing  
5 the witness' testimony.

6 BY MR. REED:

7 Q. And you can answer, Doctor. Unless  
8 Mr. Fine instructs you not to answer, you're  
9 allowed to answer.

10 A. Would you ask that question again the way  
11 you said it, please?

12 Q. Yeah, sure. So, you mentioned  
13 that -- you said the MSDE didn't really make the  
14 determination. They would report to the board, who  
15 then would make a determination, and they would  
16 report to the board potential concerning language  
17 or language that they had marked, correct?

18 A. Yes.

19 Q. And then the board would make a  
20 determination as to that school, correct?

21 A. Yes.



1 Q. So, as to schools that did not have  
2 "concerning language," the board never reviewed  
3 those handbooks, correct, if they were never  
4 brought to the attention of the board? Correct?

5 A. I was never aware of anything brought to  
6 me, no. I didn't attend every meeting, but I  
7 attended most. I was not aware of anything brought  
8 to me.

9 Q. Okay. So, if MSDE, they were -- they  
10 reviewed all handbooks, correct?

11 A. Yes.

12 Q. Okay. And if they did not mark any  
13 language as concerning or, you know, needing more  
14 clarity, then that was never brought to the  
15 attention of the board, correct?

16 A. Yes.

17 Q. Okay. I want to show you another  
18 exhibit, and this is Exhibit 33, which is Bates  
19 stamped BETHEL DEFENDANTS1332.001. Can you see  
20 this, Dr. Sanders?

21 A. Yes. Yes.

1 Q. Do you -- do you know what this document  
2 is?

3 A. Would you enlarge it a little?

4 Q. Yeah, sure. Is that better?

5 (Whereupon, there was a pause for  
6 document examination.)

7 THE WITNESS: Okay. And your question  
8 was?

9 BY MR. REED:

10 Q. Do you recognize this document?

11 A. Yes, I recognize it as Elizabeth Kameen  
12 to Board Chair Gallagher.

13 Q. And it's on Office of the Attorney  
14 General letterhead, correct?

15 A. Yes.

16 Q. Dated January 9th, 2018. Do you recall  
17 reviewing this or receiving this thereabout that  
18 time in January of 2018?

19 A. Do I really recall it? I -- I honestly  
20 can't say I do because, you know, I wouldn't  
21 remember back that far, but it -- it -- most

1 likely, you know, I would have seen it; yes.

2 Q. Okay. So, I'm going to scroll down to  
3 page 2, and if you'll take a look at these. So,  
4 let me back up a little bit.

5 It states here that after reviewing a  
6 nonpublic -- a number of nonpublic school  
7 handbooks, MSDE identified a few different ways in  
8 which schools could address sexual orientation.  
9 The memo states, The specific language used in each  
10 handbook varies slightly, but it generally fits  
11 into one of three categories. And then it states,  
12 We will analyze each of these categories in turn.

13 Now, if you will, Doctor, will you take a  
14 review at these paragraphs 1, 2, and 3, and let me  
15 know when you're done?

16 A. Yes.

17 (Whereupon, there was a pause for  
18 document examination.)

19 THE WITNESS: I'm done.

20 BY MR. REED:

21 Q. Okay. Do you recall those three

1 different categories or buckets, if you will? Do  
2 you recall discussing it or --

3 A. I recall it being brought up at a -- yes.

4 Q. Okay. Now, I want to primarily talk  
5 about this third category. Do you -- do you know  
6 what schools were placed in this third category?

7 A. At that point, no. I think -- I can only  
8 speak for myself. I was just beginning to  
9 understand from this document the range of meaning  
10 that could be applied, you know, to the -- to that  
11 question of what is discrimination, and so my  
12 understanding was that legal Counsel was -- was  
13 giving us guidance based on their review of the  
14 breadth of -- of the question, and it was -- you  
15 know, its complexity broke down into those three  
16 categories.

17 Q. Okay. And I'll refer to the -- the third  
18 category as maybe the gray area or -- because  
19 that's what it was, correct? It was -- it was  
20 questionable, at best, or -- is that correct? Am I  
21 understanding that correctly?

1 MR. FINE: Objection. Form.

2 THE WITNESS: I -- would you repeat that,  
3 please?

4 BY MR. REED:

5 Q. Yeah. So, the third category of schools,  
6 it -- it was unclear whether their handbooks  
7 complied with the nondiscrimination requirement,  
8 correct?

9 A. That's not my understanding. It --

10 Q. Okay. What -- what was your  
11 understanding?

12 A. The noncompliance -- my understanding,  
13 and it's based on how I helped -- helped to  
14 interpret it, is that the compliance was not in  
15 question or the noncompliance was not in question.

16 To me, it was just -- it was a -- it was  
17 the presence of a statement on homosexuality that  
18 was in -- in the thing. It did not fit the other  
19 two -- two categories.

20 Q. Okay. So, do you -- do you know what  
21 category Bethel Christian Academy was placed in?

1 A. I would say the third category.

2 Q. Okay. And -- and what action did the  
3 board take with respect to those schools that they  
4 had placed in the third category?

5 A. Well, the board's action, to the best of  
6 my memory, was that all noncompliance was  
7 noncompliance, and the board wanted an assurance,  
8 especially from the schools in the third category  
9 just to be sure of the -- of the interpretation,  
10 that those schools would -- were not discriminatory  
11 in their admission practices and policy. So, it  
12 sought those assurances in -- in that  
13 third-category case which could be less clear than  
14 the other two.

15 Q. Okay. Didn't all schools that  
16 participated in the BOOST Program sign assurances  
17 when they submitted their application which stated  
18 that they don't discriminate in their admissions  
19 practices?

20 A. That's my understanding.

21 Q. And Bethel Christian Academy had

1 participated in the BOOST Program for the school  
2 year 2017 and '18, correct?

3 A. Yes.

4 Q. So, they would have assigned that  
5 assurance, correct?

6 A. I would expect them to, yes.

7 Q. Okay. And then I think you mentioned, so  
8 the -- the board sent kind of a follow-up letter,  
9 if you will, asking for further clarification,  
10 correct, to the schools, the category-three  
11 schools?

12 A. Yes.

13 Q. Okay. Do you recall what Bethel  
14 Christian Academy said in response?

15 A. To be honest, Jake, I only recall because  
16 of what I read prior to this meeting.

17 Q. Okay. Well, here, I'll pull it up.  
18 Okay. This is Exhibit 11, which is Bates stamped  
19 0069, which was Exhibit 3 to the Plaintiff's Motion  
20 for Preliminary Injunction.

21 Doctor, take a look at this, and take

1 your time if you need to, and my question is, do  
2 you -- have you seen this document before?

3 A. I have seen this document before; yes.

4 Q. Okay. Do you -- do you recall when you  
5 saw it the first time?

6 A. I can't recall when it was I saw it the  
7 first time.

8 Q. Do you recall if you saw it thereabout  
9 March 2018?

10 A. I would expect I would have seen it then,  
11 yes, you know, as a regular attendee at the  
12 meetings.

13 Q. Okay. And it states here in the first  
14 paragraph that this letter is BCA's response to the  
15 question raised by the BOOST Advisory Board  
16 regarding how Bethel Christian Academy's student  
17 handbook reconciles with the assurance BCA signed  
18 regarding nondiscrimination in student admissions.

19 So, is it your understanding that this  
20 letter was Bethel's response to the board's further  
21 follow-up?



1 A. Yes.

2 Q. Okay. And they list their  
3 nondiscrimination statement here. Now, I'm going  
4 to the second page, and can you read the sentence,  
5 Doctor, if you will, that begins with, Bethel  
6 Christian Academy?

7 A. Yes. Bethel Christian Academy does not  
8 ask any questions about sexual orientation at all  
9 during the admissions process and is willing to  
10 enroll any student who meets the academic criteria  
11 and whose past school conduct has not been  
12 demonstrably disruptive in a previous school.

13 Q. Okay. Thank you. So, for you as a  
14 sitting BOOST Board member, was -- was this I'll  
15 call it an assurance, or follow-up response,  
16 sufficient to the board, to you as a BOOST Board  
17 member to prove that Bethel did not discriminate in  
18 their admissions practices?

19 A. In and of itself, I would say, yes, but  
20 in -- I'm trying to read the statement, Jake.

21 Q. Yeah, that's fine. Take your time.

1           A.     Okay.

2                     (Whereupon, there was a pause for  
3 document examination.)

4           THE WITNESS:   Can you scroll up to the  
5 previous -- the bottom of the previous page?   Thank  
6 you.

7 BY MR. REED:

8           Q.     Yes.

9                     (Whereupon, there was a pause for  
10 document examination.)

11           THE WITNESS:   That's -- thank you.  
12 That's -- I wanted to be sure that I saw that part.

13 BY MR. REED:

14           Q.     Sure.

15           A.     What I want to say is the board would  
16 take the context of the whole letter, of everything  
17 that was there, so for me at least, the section  
18 preceding that describing the definition of  
19 marriage and so forth, that was -- that would be  
20 where I would have a problem.

21           Q.     Okay.   So, let's -- I'm going to pull up

1 their handbook if that's okay, and we can take a  
2 look at it from that year.

3 Okay. Dr. Sanders, I'm showing you what  
4 is marked as Exhibit 2 maybe. Here we go, and it  
5 is Bates stamped 0002, which was Exhibit 1 to  
6 Plaintiff's Motion for Preliminary Injunction, and  
7 this is labeled Bethel Christian Academy  
8 Parent/Student Handbook 2017-2018, Correct?

9 A. Yes.

10 Q. And have you seen this handbook before?

11 A. No, I have not looked at the handbook.

12 Q. You have not, okay. So, this is the  
13 first time you're seeing this document?

14 A. The handbook, yes, that's the first time  
15 I'm seeing it.

16 Q. Okay. Now, I'm going to scroll to their  
17 Admissions Policy on page 7 of the handbook. It's  
18 Bates 0008. Have you -- have you seen this before,  
19 their Admissions Policy?

20 (Whereupon, there was a pause for  
21 document examination.)

1 THE WITNESS: Can you enlarge that a  
2 little, please, Jake?

3 BY MR. REED:

4 Q. Yeah, yeah. Why don't we do this: Take  
5 a look at it, and I can scroll, and when you've  
6 reviewed it, let me know.

7 A. Okay.

8 (Whereupon, there was a pause for  
9 document examination.)

10 THE WITNESS: Would you scroll a little,  
11 please?

12 BY MR. REED:

13 Q. Sure.

14 (Whereupon, there was a pause for  
15 document examination.)

16 THE WITNESS: Whoops. Okay. I'm  
17 familiar with that part of the -- the handbook  
18 because that's the part we were given to look at  
19 and discuss as a board.

20 BY MR. REED:

21 Q. Okay. The -- the whole page here or just

1 a certain part?

2 A. I'm not sure.

3 Q. Okay. And -- and who gave the  
4 board -- you said that you were given that. Who  
5 gave it to you? Who gave it to the board?

6 A. Well, staff would -- would give this to  
7 us for our discussion, as -- as part of the board's  
8 decision-making and deliberation of this.

9 Q. Okay. And that's staff at the MSDE?

10 A. Yes.

11 Q. Okay. So, we just looked at a letter in  
12 which Bethel Christian Academy says that they don't  
13 consider sexual orientation in their admissions,  
14 and they'll accept anyone that meets their other  
15 criteria, correct? The letter we just looked at?

16 A. Yes.

17 Q. Okay. Now, this is their handbook, and  
18 I'm asking you just as a member of the BOOST  
19 Advisory Board, what in the Admissions Policy  
20 conflicted with the nondiscrimination provision of  
21 the BOOST law?

1 (Whereupon, there was a pause for  
2 document examination.)

3 THE WITNESS: To me, nothing in the  
4 Admissions Policy part was in conflict.

5 BY MR. REED:

6 Q. Okay. Is there anything on this page  
7 that is in conflict?

8 A. Yes. For me, the Statement of  
9 Nondiscrimination, the second paragraph.

10 Q. This paragraph or this paragraph  
11 (indicating)?

12 A. No, the second paragraph. Yeah, that  
13 one. Yes.

14 Q. The one that I highlighted which starts  
15 with, It should be noted?

16 A. Yes.

17 Q. Okay. And what -- what about that  
18 paragraph was in conflict with the  
19 nondiscrimination law?

20 A. The biblical view of marriage defined as  
21 a covenant between one man and one woman and that

1 God immutably bestows gender upon each person at  
2 birth as male or female to reflect His image.

3 Q. Okay. So, why was that in conflict with  
4 the BOOST law?

5 A. And let me finish, because the -- if I  
6 may.

7 Q. Sure. Yes, sure.

8 A. At the very end, Therefore, faculty,  
9 staff, and student conduct is expected to align  
10 with this view. Faculty, staff, and students are  
11 required to identify with, dress in accordance  
12 with, and use facilities associated with their  
13 biological gender. That section that I just read  
14 to me is -- personally for me has a lot of concern.

15 Q. Okay. Why does -- why does it have  
16 concern?

17 A. I believe that it conflicts with what  
18 science is now learning about the range and the  
19 variability in gender and I -- to say that you must  
20 conform in -- in your dress with your birth gender,  
21 if a student were transgender, I could see where

1 that would be problematic.

2 If a student came from a family of  
3 same-gender parents, I could see where that could  
4 pose a lot of problems. How would you go to a PTA  
5 meeting? Would you go together if you were  
6 parents? That just raises a lot of concerns for me  
7 in terms of the student's ability to be seen as a  
8 full comparable member of that -- of that school.

9 Q. Did the BOOST law in 2017 and 2018  
10 prohibit discrimination in admissions based on  
11 gender identity?

12 A. I don't know. I can't answer that  
13 question. That -- I would expect --

14 Q. Dr. Sanders, you broke up.

15 A. I said, I don't know. That would be  
16 something that I -- that I would ask for legal  
17 guidance on.

18 Q. Okay.

19 MR. REED: We've been going about an  
20 hour. Do you want to take a ten-minute, Justin and  
21 Dr. Sanders?



1 MR. FINE: That's fine with me.

2 MR. REED: Oh, yes.

3 THE VIDEOGRAPHER: Off the video record  
4 at 10 --

5 THE WITNESS: Yes. I'd like to take a  
6 pill, take a medication.

7 MR. REED: Yes. Take your time. We'll  
8 be back in about ten.

9 MR. FINE: Okay.

10 THE WITNESS: Thanks.

11 THE VIDEOGRAPHER: Okay.

12 MR. FINE: Dr. Sanders?

13 THE WITNESS: Yes.

14 MR. FINE: Just a reminder to mute your  
15 microphone while we're off the record.

16 THE WITNESS: Okay. Thank you.

17 MR. FINE: Sure. You're welcome.

18 THE VIDEOGRAPHER: Off the record at  
19 10:35 a.m.

20 (Recess taken -- 10:35 a.m.)

21 (After recess -- 10:49 a.m.)

1 THE VIDEOGRAPHER: This is the beginning  
2 of media unit number two. Back on the video record  
3 at 10:49 a.m.

4 BY MR. REED:

5 Q. Okay. Thank you for the break.

6 Dr. Sanders, are you doing okay? Hanging  
7 in there?

8 A. Yes, and thank you, Jake. I needed that  
9 break to take that medicine.

10 Q. Good, good. Yeah, if you need --

11 A. And usually --

12 Q. -- need a break, let me know. We're in  
13 no rush here.

14 A. Okay. It requires a full glass of water,  
15 so sometime probably before this is over I'll need  
16 to take part two of that break.

17 Q. I hear you. No problem. That's --

18 MR. FINE: That makes two of us.

19 BY MR. REED:

20 Q. Yeah. Sure. Okay. So, I want to keep  
21 trucking here --

1 A. Um-hum.

2 Q. -- kind of where we left off. Give me  
3 one second. Okay. I'm going to pull back up  
4 Exhibit 2, --

5 A. Okay.

6 Q. -- which is what we were just looking at,  
7 Bethel Christian Academy Parent/Student Handbook  
8 2017-2018, and I'm going back to the admissions  
9 page we were on, page 7.

10 Now, we were talking about the last  
11 paragraph here that starts with, It should be  
12 noted, however. So, the first sentence there  
13 states, It should be noted, however, that Bethel  
14 Christian Academy supports the biblical view of  
15 marriage defined as a covenant between one man and  
16 one woman, and that God immutably bestows gender  
17 upon each person at birth as male or female to  
18 reflect His image. Did I read that accurately,  
19 Doctor?

20 A. Yes.

21 Q. Okay. Would you agree with me that that

1 is a statement of belief?

2 A. Yes.

3 Q. Okay. Do you recall in the BOOST law a  
4 provision that states nothing herein shall require  
5 any school or institution to adopt any rule,  
6 regulation, or policy that conflicts with its  
7 religious or moral teachings? Do you remember  
8 looking at that earlier?

9 A. Yes, I do.

10 Q. So, my question is if -- if the law, if  
11 the BOOST law provides a school does not have to  
12 adopt or change any of their statements of beliefs,  
13 then why did this section cause you concern with  
14 respect to the nondiscrimination requirements?

15 A. That sentence as a statement of belief is  
16 not causing me concern. The sentence following it,  
17 which is action, a statement of actions is what  
18 causes me concern, because it is in that sentence  
19 that I believe a student who is of, you know, a  
20 different sexual orientation or whatever could have  
21 a problem, could feel uncomfortable, could feel

1 unwanted because you are required to dress in  
2 accordance with and use the facilities associated  
3 with your biological gender. So, it's not the  
4 belief. It's the expected action for me.

5 Q. Okay. Did the BOOST law -- the BOOST law  
6 only required a school to not discriminate in their  
7 admissions process, correct?

8 A. That's my understanding.

9 Q. So, I -- my question is whether a student  
10 feels uncomfortable or comfortable, how does that  
11 have anything to do with the BOOST  
12 nondiscrimination requirements?

13 A. And this is where I will seek real  
14 guidance from legal Counsel, as the board often  
15 did, but admissions to me is also about retention.

16 I mean, I -- I wouldn't personally feel  
17 that, okay, you're admitted, but you're admitted  
18 in -- all of that is part of the Admissions Policy.

19 THE COURT REPORTER: I didn't get that.  
20 Can you repeat the back part of your answer,  
21 please?

1 THE WITNESS: Yes. I said admissions to  
2 me also includes a notion of retention or -- or a  
3 desire to retain, so I -- I can't admit you and  
4 then say, now that I've admitted you, I have seen  
5 you do this. I can dismiss you, and --

6 BY MR. REED:

7 Q. Okay. Can you show me anywhere on this  
8 Admissions Policy where it states that Bethel will  
9 expel a student based on their sexual orientation?

10 A. I don't -- I don't see that anywhere  
11 there. I don't see that.

12 Q. Okay. And, again, you know, Doctor, I'm  
13 just trying to understand. The -- the BOOST law  
14 states, you can't discriminate based on admissions  
15 based on sexual orientation.

16 Bethel Christian Academy signed an  
17 assurance saying they don't, correct?

18 A. That's correct.

19 Q. And the BOOST Board then sent -- sent  
20 follow-up correspondence asking to clarify, and  
21 Bethel responds saying, we don't even take sexual

1 orientation -- we don't even ask about it, and  
2 we'll admit anyone regardless as long as they meet  
3 our academic criteria -- criteria, correct?

4 A. That's correct.

5 Q. So -- so, they responded, and then on  
6 another occasion in the same way, and I'm -- my  
7 question is, you know, Bethel gives multiple  
8 assurances that they don't consider sexual  
9 orientation and that they don't discriminate based  
10 on such, but they're still removed from the BOOST  
11 Program and the question is, why? Why were they  
12 removed?

13 A. Well, my -- my interpretation -- and I  
14 would say that the board's decisions on this were  
15 all unanimous, but I -- you know, and people on the  
16 board gave their specific perspectives, --

17 Q. Okay.

18 A. -- but for me, it's that last sentence  
19 that, the belief statement. Your belief is your  
20 belief, but I believe personally it's a  
21 discriminatory act to say that if you're one way,

1 you must dress another way, and -- and you must use  
2 a facility associated with a gender that you don't  
3 believe you are. That, to me, is discriminatory.

4 I don't see how a student can comfortably  
5 feel to be a part of a community or wanted in a  
6 community that way, so I'm not questioning the  
7 belief statement. I'm questioning the action  
8 expectation.

9 Q. Okay. So -- so, Doctor, let me -- let me  
10 move on here. I'm going to pull up another  
11 document.

12 Well, let me ask you before I pull this  
13 up. So, did you or the board have -- receive any  
14 allegation that Bethel Christian Academy was, in  
15 fact, discriminating in their admissions process?

16 A. What was the first part of your question  
17 again? Any what? I missed that word. Any?

18 Q. Any allegation.

19 A. It's been so long ago I can't remember.  
20 I -- I can't remember.

21 Q. Okay. Did the board receive any



1 allegation or have any evidence that Bethel  
2 Christian Academy had punished or expelled a  
3 student based on their sexual orientation?

4 A. I can't remember. I don't remember.

5 Q. Okay. All right. I'm going to pull up  
6 another document here. Do you recall the school,  
7 Grace Academy in Hagerstown?

8 A. I -- I remember that name; yes.

9 Q. Do you -- do you recall -- can you tell  
10 me what you recall about that school?

11 A. Only that it was one of the schools that  
12 was listed as a -- a school of concern on its  
13 handbook policy, but I can't remember which  
14 category it was in, you know, which of the three or  
15 that sort of thing right now.

16 Q. Okay. Do you recall what action the  
17 board took with respect to Grace Academy?

18 A. Not right now, no.

19 Q. Okay. So -- so, I'll tell you, and I'll  
20 show you. At the June 21st, 2018 board meeting,  
21 the BOOST Board considered four schools. And let

1 me know if they, you know, ring your memory.

2 A. Yeah.

3 Q. One was Bethel Christian Academy, one was  
4 Woodstream Academy, --

5 A. Um-hum.

6 Q. -- Broadfording Academy, and then Grace  
7 Academy, the school I just mentioned.

8 A. Um-hum.

9 Q. And I'll show you the summary of  
10 decisions that the board took with respect to  
11 those --

12 A. Okay.

13 Q. -- schools. Okay. So, this is Exhibit  
14 36. It's Bates stamped BETHEL DEFENDANTS2333.001.  
15 It's entitled, Broadening Options and Opportunities  
16 for Students Today, Advisory Board Meeting - June  
17 21st, Summary of Decisions. Do you recognize this  
18 document, Dr. Sanders?

19 A. Yes, I recognize that document.

20 Q. Okay. And have you seen this document  
21 before?

1 A. Yes.

2 Q. Okay. And, again, this is the June 21st  
3 meeting I just mentioned, and I'm going to scroll  
4 to the second page here. And can you read the  
5 highlighted portion here --

6 A. Um-hum.

7 Q. -- just with respect to the decisions of  
8 those four schools?

9 A. Sure. The board unanimously decided that  
10 Broadfording Christian Academy is eligible. Grace  
11 Academy, Hagerstown had submitted a student  
12 handbook with revised admission policies in May of  
13 2018, and the board unanimously decided that the  
14 new handbook complies with the nondiscrimination  
15 requirements, and the school is eligible to  
16 participate in the next available window to be  
17 determined administrative -- administratively by  
18 MSDE.

19 The board unanimously decided that Bethel  
20 Christian Academy - Savage and Woodstream Christian  
21 Academy - Mitchellville are not eligible. Revised

1 September 2018 for consideration --

2 Q. Okay. Thank -- thank you. So, Grace  
3 Academy was deemed to be allowed to participate in  
4 the BOOST Program, correct?

5 A. Yes.

6 Q. Okay. Okay. I'm going to show you  
7 another document. Okay. And this is -- this is  
8 Exhibit 41, Bates stamped BETHEL DEFENDANTS515-02.

9 Just take a look at this, Doctor, if you  
10 will, and let me know if you recognize it or have  
11 seen it before.

12 A. Okay. Would you enlarge it, please,  
13 Jake?

14 Q. Yeah, sure.

15 A. Thanks.

16 (Whereupon, there was a pause for  
17 document examination.)

18 THE WITNESS: Would you scroll down,  
19 please?

20 BY MR. REED:

21 Q. Absolutely.

1 (Whereupon, there was a pause for  
2 document examination.)

3 THE WITNESS: Okay. You can scroll,  
4 please.

5 BY MR. REED:

6 Q. Sure.

7 (Whereupon, there was a pause for  
8 document examination.)

9 THE WITNESS: Um-hum.

10 BY MR. REED:

11 Q. Did you read all of that?

12 A. Yes, I've read it.

13 Q. Okay. So, have -- have you seen this  
14 before?

15 A. I believe I have.

16 Q. Okay. And this was Grace Academy's  
17 request for reconsideration to participate in the  
18 BOOST Program, correct?

19 A. Yes.

20 Q. And it's dated June 4th, 2018. And Grace  
21 gives the same response that Bethel gave, correct,

1 that they don't consider sexual orientation in  
2 their admissions practices and that they'll admit  
3 anyone? Correct?

4 A. Yes. Basically, yes.

5 Q. Okay. Right. I'm going to go down.  
6 There's two attachments here, and it's their  
7 Admissions Policy. They have a -- the revised one  
8 dated May 10, 2018, and then here's their prior  
9 one, the last page of the exhibit.

10 A. Okay.

11 Q. So, let's look at the revised one,  
12 because in their request for reconsideration, they  
13 state that they revised their policy, correct?

14 A. Yes.

15 Q. So, this would have been the pertinent  
16 policy?

17 A. Yes.

18 Q. Okay. Can you -- and sorry for all of  
19 the reading.

20 A. No problem.

21 Q. It's a lot. I'm trying to highlight it.

1 It's not working. Can you read the paragraph that  
2 starts, Grace Academy's biblical role? It's the  
3 second paragraph. Can you read that one and the  
4 third paragraph, please?

5 A. Yes. Grace Academy's Biblical role is to  
6 work in conjunction with the home to mold students  
7 to be Christ-like. On occasion, the atmosphere or  
8 conduct within a particular home may be counter or  
9 in opposition to the Biblical lifestyle the school  
10 teaches. If the moral principles of the applicant  
11 are in conflict or do not align with those of the  
12 Grace Academy Statement of Faith, Grace Academy  
13 reserves the right to refuse admission of an  
14 applicant or discontinue enrollment of a student.

15 Continue?

16 Q. Yeah, the next paragraph, please.

17 A. This includes, but is not necessarily  
18 limited to: Sexual immorality or inability to  
19 support and follow the moral principles of the  
20 school. In such cases, the school reserves the  
21 right, within its sole discretion, to refuse

1 admission of an applicant or to discontinue  
2 enrollment of a student.

3 Students not in good standing or with an  
4 outstanding debt at another school will not be  
5 accepted. In all cases, the principal and  
6 headmaster have the final decision regarding the  
7 admission of any student.

8 Q. Okay. Thank you, Doctor. So, Grace  
9 Academy was, and you already answered this, but  
10 they were allowed to participate in the BOOST  
11 Program, correct?

12 A. Um-hum.

13 Q. Now, their Admissions Policy states that  
14 they reserve the right to refuse admission to an  
15 applicant or discontinue enrollment of a student  
16 that would engage in sexual immorality or inability  
17 to support and following follow the moral  
18 principles of the school, correct?

19 A. Yes.

20 Q. So my question is, what's the difference  
21 between Bethel Christian Academy and Grace Academy?



1           A.     Okay.  I -- I am not sure that I can  
2     remember fully correctly the discussion that was on  
3     this, but my memory as serves is that it was  
4     difficult -- sexual immorality in terms of behavior  
5     seemed to be what the school was pointing at and  
6     was not talking about sexual orientation.

7                     As a matter of fact, in one part it said  
8     they didn't care what your sexuality is.  They  
9     expected a certain behavior at the school, so I  
10    think -- and we did have some discussion with legal  
11    Counsel.  I remember that, but I think the  
12    difficulty of -- of trying to say that what they  
13    were doing would extend all of the way to one's  
14    orientation as opposed to you can't have sex on  
15    campus, that kind of thing, or you're coming from a  
16    home where maybe there was something considered  
17    generally immoral behavior.  I don't know, you  
18    know, porn sites or something, I don't know, but  
19    that was different from looking at a question of  
20    sexual orientation.

21                    And -- and you couldn't, based on this

1 language, say that this was discrimination based on  
2 orientation or gender identity. This was -- this  
3 was proscribing sexual activity.

4 Q. Right. And do you recall in the March  
5 13th letter from Bethel where Bethel Christian  
6 Academy states that any sexual activity, whether  
7 homosexual or heterosexual, is prohibited? Do you  
8 recall that?

9 A. I have a -- yeah, I have a recollection  
10 of that.

11 Q. Right. So, again, just -- I'm trying to  
12 understand this. Grace Academy submits an  
13 explanation that says, we prohibit any sexual  
14 activity. Bethel Christian Academy does the same.

15 Bethel has a statement about conduct,  
16 which we talked about, and Grace has a -- a  
17 statement about conduct stating that they reserve  
18 the right to refuse admission to anyone who doesn't  
19 conform to it. I just -- I -- what -- you know,  
20 what is the difference? Why was Grace Academy  
21 allowed to participate, but Bethel Academy was not?

1           A.     Well, for me, Jake, the difference is  
2     Grace doesn't say that you must use a restroom that  
3     conforms to your birth identity.  If that's not who  
4     you really believe you are, then you must -- it  
5     doesn't get that detailed and specific.

6           So, if it doesn't say that, I can't  
7     really accuse you of -- of you're going to do that,  
8     but those statements were explicit in Bethel's  
9     policy as -- as, you know, we've seen.

10           So, it's -- it's not -- I may personally  
11     have a question or a reservation, but I'm going on  
12     what I'm reading.  And I'm not reading there  
13     that -- that they're talking about who you are.  
14     They're talking about what you may or may not do.

15           Q.     And Grace Academy says they reserve the  
16     right to refuse admission or distin- -- discontinue  
17     enrollment of a student, and then you go down a  
18     line, one who does not support and follow the moral  
19     principles of the school, correct?

20           A.     Yes.

21           MR. FINE:  I'm going to object here.

1 The -- the witness has been asked this -- this  
2 question several times, and he's answered.

3 BY MR. REED:

4 Q. You can answer, Doctor.

5 A. Well, I've given you the best answer I  
6 can, and I'm trying to make the distinction between  
7 your identity and what is prescribed activity for  
8 all students, regardless of how they identify as  
9 opposed to masking your identity or -- or any other  
10 thing just based on your identity. To me -- for  
11 me, that's the key issue.

12 Q. But, again, and just to be clear, in 2017  
13 and 2018, the BOOST law did not prohibit  
14 discrimination based on gender identity or gender  
15 expression, correct?

16 A. That's what I meant when I said in a  
17 discussion on all of that, that would have been  
18 really looking at it on advice and guidance of  
19 Counsel in terms of just what was the intent of the  
20 law, what was included and what was not, you know.  
21 So, that's all part of trying to get the

1 professionals' help on your interpretation of what  
2 you're reading.

3 Q. Okay. Now, let me ask you this, Doctor:  
4 Is sexual orientation and gender  
5 identity/expression the same thing?

6 A. Is sexual orientation and gender  
7 identity -- and gender identity/expression, are  
8 they the same thing? No.

9 Q. Okay. What's the difference?

10 A. Your sexual orientation is with whom you  
11 have a desire to mate, to conjugate.

12 Your identity is whether or not you see  
13 yourself as male or female regardless of what your  
14 physical properties may be.

15 Q. Okay. So, how -- how does one  
16 discriminate an admissions based on gender  
17 identity?

18 A. If I were --

19 MR. FINE: Objection. Calls for  
20 speculation. Go ahead, Doctor.

21 THE WITNESS: No, I don't want to

1 speculate that, so I really wouldn't want to answer  
2 that.

3 BY MR. REED:

4 Q. Well, let me just rephrase it then. So,  
5 I mean, you're a sitting member of the BOOST Board.  
6 You have to administer the BOOST Program, and if  
7 the BOOST Program prohibits discrimination and  
8 admissions based on sexual or, I'm sorry, gender  
9 identity, my question is, how would a school  
10 discriminate based on sex or gender identity?

11 MR. FINE: Objection. Form. You can  
12 answer, Dr. Sanders.

13 THE WITNESS: I would think if I believed  
14 I were female and you saw me wearing earrings or  
15 makeup or lipstick, you might discriminate against  
16 me on that, and certainly if I wore apparel that  
17 fitted who I believe I was.

18 BY MR. REED:

19 Q. But how does a school discriminate? What  
20 would they have to do to, in effect, discriminate  
21 against that student?

1           A.     Well, you could tell me that regardless  
2     of what I was wearing, I had to use the boy's  
3     bathroom, or you could tell me I had to take  
4     those -- change my apparel, my -- my appearance in  
5     that sense or you would find me in violation.

6           Q.     Okay. How -- how would that -- let me  
7     ask this: Are there all-boys' or all-girls'  
8     schools that participate in the BOOST Program?

9           A.     I believe, so yes.

10          Q.     So, how -- how would that apply to an  
11     all-boys' or an all-girls' school?

12          A.     Well, if I believe I were a boy and  
13     that's not my -- my gender at birth or assigned  
14     gender at birth, then I think that that's where you  
15     begin to try to apply these understandings.

16          Q.     So, let's take, for an example, if you  
17     have an all-boys' boarding school and -- and a  
18     biological female who believes she's a boy wants to  
19     attend, would that school have to admit that  
20     student to be in compliance with the BOOST  
21     nondiscrimination law?

1 MR. FINE: Objection. Form.

2 THE WITNESS: I would certainly go to my  
3 legal Counsel for advice on that.

4 BY MR. REED:

5 Q. What would you do? What would your vote  
6 be if this was before the BOOST Board?

7 A. On the face of it, my vote would be to  
8 accept who the student says she or he is.

9 Q. Okay. How does the school discriminate  
10 based on gender expression?

11 A. As I said, it could be by your apparel,  
12 maybe the way you adorn yourself, maybe by some  
13 behaviors.

14 Q. Okay. How would a school discriminate in  
15 admissions based on sexual orientation?

16 A. If you declare that you have a  
17 specific -- a specific orientation or a -- or if  
18 they surmise, let's say, based on how they see you  
19 in school during the course of the day, you know,  
20 are you holding hands with this one or whatever?

21 If I -- if I see a boy and a girl holding



1 hands and walking to class, am I going to be  
2 equally as comfortable if I see two people of the  
3 same sex holding hands and walking to class? If  
4 I --

5 Q. Well --

6 A. If -- if other students are beginning to  
7 tease or taunt, do I actively put that down and try  
8 to educate or do I tolerate? Those would be my  
9 answers.

10 Q. Okay. So, if a school has a belief that  
11 God created us male and female immutably and He  
12 intends marriage to be only between a male and a  
13 female and that's their religious belief and it's  
14 in their documents and they teach it, but they  
15 don't discriminate against anyone based on sexual  
16 orientation, would that school be allowed to  
17 participate in the BOOST Program?

18 A. Yeah, because I'm not going at your  
19 belief statement. I'm going at what your actions  
20 are regarding the student.

21 Q. Okay. And what if that school prohibits

1 any public displays of affection of any kind  
2 whether homosexual or heterosexual?

3 A. Then I think if it's applying all of the  
4 way across the board to everybody and anybody and  
5 everybody can be suspended or -- or whatever or  
6 disciplined, and I'm clear about that from the  
7 beginning, then that's not discriminatory. That's  
8 your policy.

9 Q. Okay. So -- and just to be clear because  
10 we had a couple of questions there. If a school  
11 accepts anybody and everybody, prohibits any public  
12 displays of affection, but has a belief that God  
13 created us male and female and it teaches that  
14 belief, then they would be in compliance with the  
15 BOOST law?

16 MR. FINE: Objection. Form.

17 THE WITNESS: If it teaches that belief,  
18 yeah, that's your belief.

19 BY MR. REED:

20 Q. Okay.

21 A. It teaches that is your belief. It

1 doesn't insist that that's what the student has to  
2 believe.

3 Q. Give my one second here.

4 (Brief pause.)

5 BY MR. REED:

6 Q. Okay. Let me -- let's go back to kind of  
7 the first things that we talked about, Doctor, with  
8 your -- the composition of the BOOST Board.

9 You mentioned some members were sort of  
10 recommended or pulled from different  
11 constituencies, correct?

12 A. Yes.

13 Q. And -- and yours was from, or at least  
14 you thought, from probably because of your  
15 background with the Archdiocese, correct?

16 A. Yes.

17 Q. And I think you mentioned, you know,  
18 there might have been one or more from the Jewish  
19 community?

20 A. Yes.

21 Q. Who would that have been?

1 A. Oh, you're going to -- COVID has taken  
2 its toll. Liz, and I can't remember her last name.

3 Q. Would it have been Green?

4 A. Yes, I think so.

5 Q. Okay. What --

6 A. This is a 78-year-old man who hasn't  
7 talked to board members.

8 Q. I know. I know it's been a few years, so  
9 I appreciate you trying to harken back.

10 A. There were two Lizes, and one of them was  
11 basically the head of a private school herself.

12 So --

13 Q. Okay.

14 A. And then the other was a -- was a really  
15 highly-regarded Jewish person whose accompaniment  
16 would often be a rabbi who represented I guess  
17 whatever the umbrella association is for Jewish  
18 schools.

19 Q. Okay. What -- what other constituencies  
20 were the board members sort of pulled from?

21 A. Well, as I said, because there's --

1       there's such a number of Catholic schools, I would  
2       imagine they would want to make sure that that kind  
3       of voice was at the table, since you're looking at  
4       all of the nonpublic world, religious and  
5       nonreligious schools, certainly public schools, and  
6       as I mentioned, there was a board member, a seated  
7       board member who is on the board.

8           Q.     Do you know if there was any -- any of  
9       the board members were pulled from the Protestant  
10      community?

11          A.     No, I don't know that, but I would  
12      probably expect it, you know, out of all of the  
13      board members.

14          Q.     Okay.

15          A.     You know, one could have a dual thing. I  
16      mean, you know, you could be on the board and be  
17      Protestant, you know.

18          Q.     Right. Right. So, let's talk for one  
19      moment about kind of the Catholic school  
20      representation.

21                 So, there are a number of Catholic

1 schools that participate in the BOOST Program,  
2 correct?

3 A. Yes.

4 Q. Okay. And now you yourself were -- well,  
5 you worked for the Archdiocese, and you went to  
6 seminary school, correct?

7 A. Yes.

8 Q. Okay. And I'll just ask you, are you a  
9 practicing Catholic or --

10 A. I hope I am.

11 Q. Okay. All right. Okay. Okay. Fair.  
12 Fair. So, you're aware of the Catholic Church's  
13 views on marriage and gender, correct?

14 A. Yes.

15 Q. Okay. So, if a Catholic school that  
16 participates in the BOOST Program has a policy or  
17 has a belief that marriage is between one man and  
18 one woman and God created us as male and female and  
19 they teach that belief and they have a policy that  
20 says students' conduct has to align with that  
21 belief, but they will admit anyone, they won't

1 expel anyone based on sexual orientation or gender  
2 identity, would that school be permitted to  
3 participate in the BOOST Program?

4 MR. FINE: Objection to form.

5 THE WITNESS: So, yeah, that calls for  
6 some speculation on my part, and I wouldn't want to  
7 do that.

8 What I will say is one of the primary  
9 principles of Catholicism that I have always been  
10 thankful for is that ultimately the primacy of your  
11 conscience has to come into play when you're  
12 looking at all of the different parts of the dogmas  
13 of faith.

14 So, and as we see happening now with Pope  
15 Francis, Catholic teaching may be slow, but  
16 it -- it does, and it can change, and it certainly  
17 has come out recently, particularly through Pope  
18 Francis, basically recognizing the validity  
19 of -- of peoples' different sexual orientations.  
20 So, I would expect that to be evident and what is  
21 put into practice in Catholic institutions.

1           It's -- it's -- I may personally feel it  
2           has further to go, for instance, recognizing  
3           marriages and so forth. None of that is  
4           recognized, but what it has recognized to me would  
5           seem to indicate that in the public forum, there is  
6           no discrimination against people based on one's  
7           orientation.

8           BY MR. REED:

9           Q.     Do you know if there are Catholic schools  
10           that participate in BOOST that has a belief in line  
11           with that of the Catholic Church, which is marriage  
12           between a male and female, but they accept any  
13           student of any sexual orientation?

14           MR. FINE:   Objection.   Form.

15           THE WITNESS:   I believe that that is the  
16           practice in the schools.   They do not ask  
17           questions.

18           BY MR. REED:

19           Q.     Okay.

20           A.     If you're a student at a Catholic school,  
21           you're a student in a Catholic school, and, in



1 fact, as -- as you know, many students in Catholic  
2 schools, particularly urban schools, are not  
3 Catholic, and so it has to recognize that as well  
4 because it's going to continue to have admissions  
5 in urban schools.

6 Q. Sure. And the same would apply to a -- a  
7 Protestant or a non-Catholic, nonpublic school,  
8 correct, that the school is open to anyone and  
9 everyone?

10 A. Right. And if there's no open action  
11 that would be -- seem to be discriminatory, then I  
12 don't see how that's violating the policy, and your  
13 belief can be your belief. It's the action that  
14 you take.

15 Q. Okay. Okay. So, throughout this whole  
16 process, the handbook review process and, you know,  
17 kind of culminating with, I guess, expelling Bethel  
18 Christian Academy from the BOOST Program, did you  
19 have any communications with anyone from the media?

20 A. None.

21 Q. Okay. Did you have any --

1 A. Not at all.

2 Q. Okay. Did you have any communications  
3 with anyone from the Governor's office?

4 A. None.

5 Q. Anyone from any House Delegate's office?

6 A. None.

7 Q. And none from any member of the Senate?

8 A. None.

9 Q. Okay. Let's see. Let's see if I missed  
10 anything.

11 (Whereupon, there was a pause for  
12 document examination.)

13 MR. REED: All right. We're about done  
14 here, Doctor.

15 BY MR. REED:

16 Q. A couple of things. So, the notes you  
17 have in front of you, the ones you took to prepare  
18 for this, could you -- how many pages of notes do  
19 you have?

20 A. Well, what I did, I had started to print  
21 the documents that were on a PDF, and I think I got

1 through the first two or three, printed them out.  
2 That was like one, two, three, four, five, six,  
3 seven, eight, nine, ten, 11 -- I got to 14 pages,  
4 and I realized I was going to run out of ink and  
5 paper, so I stopped doing that. And then I just  
6 started reading the document and then writing like  
7 a little hand summary of what I may have read, but  
8 I haven't referred to any of that throughout our  
9 discussion.

10 Q. Okay. And were those -- so, did you take  
11 those notes on the computer and then try to print  
12 them off?

13 A. Yes. I was looking at the -- the PDF  
14 that contained all of the stuff, and I was simply  
15 reading and copying, because I didn't know if I  
16 would get a second chance to read everything over a  
17 second time, so --

18 Q. Okay. As I said, I don't want to have  
19 you sit here and read 14 pages of notes, but do you  
20 still have those notes saved on your computer?

21 A. Oh, no. The notes I -- they're on the

1 back of the pages I have.

2 Q. Okay. And the pages were just  
3 documents --

4 A. The fourteen pages were the first couple  
5 of documents out of the maybe 27 or 28 that I  
6 received, but, like I said, one document was  
7 several pages long. One document was the document  
8 with your -- I forget what you call it.

9 THE WITNESS: Justin, is that  
10 Interrogatories where -- where --

11 MR. FINE: Discovery.

12 BY MR. REED:

13 Q. Discovery.

14 MR. FINE: Yes.

15 THE WITNESS: Yes, and so I think there  
16 were several pages of that, and I was, oh, whooah.

17 BY MR. REED:

18 Q. Sure. Okay. I don't want to have you  
19 sit here and read those. Could you do this,  
20 Doctor: Could you just hold on to those --

21 A. I will.

1 Q. -- in case -- we have a right to look at  
2 them. So, can you just keep them? And then  
3 it -- you know, if we need to look at them, maybe  
4 give them to Justin or one of your attorneys?

5 A. I would be happy to.

6 Q. If you could just hold on to them,  
7 because, again, I don't want to sit here and have  
8 you read however many pages.

9 A. Yes.

10 MR. FINE: So, Jake, what I would add  
11 is -- I'm just going to lodge a quick objection,  
12 and that is, that, of course, Dr. Sanders and I met  
13 in preparation for his deposition, so anything that  
14 we provided, that his attorneys provided to  
15 Dr. Sanders will not be discoverable.

16 To the extent you're looking at his  
17 handwritten notes, I'm not -- you know, I'm not  
18 sure how much that reflects our conversations or  
19 not, but he'll keep that, and if at some point you  
20 want to take a look at that, we can have that  
21 conversation. But for right now, I'm just going to

1 lodge an attorney/client privilege objection.

2 MR. REED: That's fine. And yeah,  
3 that's -- okay.

4 THE VIDEOGRAPHER: Would you like to go  
5 off the record or --

6 MR. REED: Yeah, let me make sure. I  
7 think that's it. I don't want to miss something,  
8 but -- yeah, I think that's all of the questions I  
9 have for you, Doctor.

10 THE WITNESS: Thank you very much. Can I  
11 talk to my attorney after this?

12 MR. FINE: We'll -- I'll follow up with  
13 you, Dr. Sanders. But, Jacob and Madame Court  
14 Reporter, unless you need anything else from  
15 Dr. Sanders, I think he can be excused.

16 MR. REED: No. We're good.

17 MR. FINE: Okay.

18 MR. REED: Doctor, thank you for making  
19 yourself available this morning. I appreciate your  
20 time and -- and your cooperation, so thank you.

21 THE WITNESS: Thank you all very much,

1 and, Jacob, I really appreciate your courtesy.

2 Thank you.

3 MR. REED: Thanks.

4 THE VIDEOGRAPHER: All right. This  
5 concludes today's video-recorded deposition. Off  
6 the video record at 11:39 a.m.

7 (Whereupon, the deposition of A. Skipp  
8 Sanders, Ed.D. was concluded at 11:39 p.m., and the  
9 reading and signing of the transcript was not  
10 waived.)

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1 State of Maryland

2 County of Baltimore, to wit:

3 I, Michele D. Lambie, a Notary Public of  
4 the State of Maryland, County of Baltimore, do  
5 hereby certify that the within-named witness  
6 personally appeared before me at the time and place  
7 herein set out, and after having been duly sworn by  
8 me, according to law, was examined by counsel.

9 I further certify that the examination  
10 was recorded stenographically by me and this  
11 transcript is a true record of the proceedings.

12 I further certify that I am not of  
13 counsel to any of the parties, nor related to any  
14 of the parties, nor in any way interested in the  
15 outcome of this action.

16 As witness my hand and notarial seal this  
17 12th day of May 2021.

18 

19 Michele D. Lambie  
20  
21



1 Justin Fine, Esquire  
2 Jfine@aog.state.md.us

3 May 12, 2021

4 RE: Bethel Ministries, Inc. v. Salmon, Karen Et Al.  
5 4/29/2021, A. Skipp Sanders (#4551827)

6 The above-referenced transcript is available for  
7 review.

8 Within the applicable timeframe, the witness should  
9 read the testimony to verify its accuracy. If there are  
10 any changes, the witness should note those with the  
11 reason, on the attached Errata Sheet.

12 The witness should sign the Acknowledgment of  
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2 A. Skipp Sanders (#4551827)

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1 Bethel Ministries, Inc. v. Salmon, Karen Et Al.

2 A. Skipp Sanders (#4551827)

3 ACKNOWLEDGEMENT OF DEPONENT

4 I, A. Skipp Sanders, do hereby declare that I  
5 have read the foregoing transcript, I have made any  
6 corrections, additions, or changes I deemed necessary as  
7 noted above to be appended hereto, and that the same is  
8 a true, correct and complete transcript of the testimony  
9 given by me.

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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.

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# **EXHIBIT 29**

Office of the Attorney General  
Maryland State Department of Education  
200 St. Paul Place  
Baltimore, Maryland 21202  
(410) 576-6465

January 9, 2018

TO: Matt Gallagher  
Monica Kearns

FROM: Elizabeth M. Kameen  
Alan J. Dunklow

RE: Enforcing Nondiscrimination and Reimbursement Provisions in BOOST Law

To date, the BOOST Advisory Board and MSDE, in consultation with counsel from the Office of the Attorney General, have identified two nonpublic schools as having discriminatory admission policies: Trinity Lutheran Christian School in Joppa, Maryland and Grace Academy in Hagerstown, Maryland. Furthermore, MSDE has confirmed that Trinity Lutheran Christian School received BOOST scholarship funds in the 2016-2017 school year.

Two questions have arisen regarding application of the BOOST law to these schools and, possibly, to others. First, there is the question of whether certain language in a nonpublic school's handbook constitutes discrimination on the basis of sexual orientation. The answer to this question will guide MSDE as it continues its review of handbooks, which may lead to the identification of additional schools as having discriminatory admission policies. Examples of the handbook language reviewed thus far are attached here as Appendix A. Second, there is the question of whether seeking reimbursement of 2016-2017 funds from noncompliant schools is mandatory or within the discretion of the BOOST Advisory Board. MSDE reports that it has not yet distributed 2017-2018 funds to schools with questionable handbook language.

*Nondiscrimination Provision*

With regard to nondiscrimination, the BOOST law states, in pertinent part:

To be eligible to participate in the BOOST Program, a nonpublic school must ... not discriminate in student admissions on the basis of ... 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 ... sexual orientation.

After reviewing a number of nonpublic school handbooks, MSDE has identified a few different ways in which schools address sexual orientation. The specific language used in each

Exhibit  
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handbook varies slightly, but it generally fits into one of three categories. We will analyze each of these categories in turn.

1. The first category consists of those schools that expressly reserve the right to refuse admission based on sexual orientation. This is, on its face, discriminatory and in conflict with the BOOST law. Schools in this category include: Trinity Lutheran Christian School, Grace Academy, and Highland View Academy.<sup>1</sup> As you know, the first two schools have already been found ineligible by the BOOST Advisory Board, while the third was newly identified during MSDE's review of handbooks.
2. The second category consists of those schools that expressly reserve the right to refuse admission based on generic "sexual misconduct," which they define as non-marital sexual conduct and homosexual conduct. While this policy applies to some heterosexual conduct, it applies to any homosexual conduct, which means that admission may be denied on the basis of sexual orientation. These schools sometimes attempt to distinguish between same-sex feelings and behavior, with only the latter being considered a violation of school policy.<sup>2</sup> Regardless, it is our view that this language is, on its face, discriminatory and in conflict with the BOOST law because it reserves the right to exclude a student based on his or her sexual orientation. Schools in this category include: Spencerville Adventist Academy, Southern Maryland Christian Academy<sup>3</sup>, and Takoma Academy.
3. The third category consists of those schools that remain silent as to admission requirements related to sexual orientation. Some of these schools often have a general nondiscrimination statement but require students and parents to adhere to religious principles, yet do not mention sexual orientation in either context. Others of these schools subscribe to a Statement on Homosexuality. That type of statement, by itself, does not violate the BOOST law because the BOOST law does not require a school to adopt any policy that conflicts with its religious teachings. Each school, however, if it wishes to participate in BOOST, must sign the assurance that it does not discriminate in admissions.

### *Reimbursement Provision*

With regard to reimbursement, the BOOST law states, in pertinent part:

If a nonpublic school does not comply with these [nondiscrimination] requirements, it shall reimburse MSDE all scholarship funds received under the BOOST Program and may not charge the student tuition and fees instead.

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<sup>1</sup> Highland View Academy did not respond to the teacher certification survey, and thus is already noncompliant with other BOOST law requirements.

<sup>2</sup> While prohibiting homosexual acts has survived equal protection challenges in some contexts, the BOOST law reflects the General Assembly's choice to prohibit discrimination based on sexual orientation in nonpublic schools that receive public funds. See *Thomasson v. Perry*, 80 F.3d 915, 928 (4th Cir. 1996) (upholding "Don't Ask, Don't Tell" policy in the United States Navy on the grounds that it was a "legitimate legislative choice").

<sup>3</sup> Southern Maryland Christian Academy is not participating in the BOOST Program in 2017-2018, but has applied to participate in the nonpublic textbook program, which has the same nondiscrimination requirements.

Thus far, the BOOST Advisory Board has required the schools it deemed ineligible based on discriminatory admission policies to retain students receiving BOOST scholarships at no additional cost to the parents, but has not required reimbursement of 2016-2017 scholarship funds to MSDE. While such a remedy is clearly authorized by the BOOST law, a question has arisen as to whether the BOOST Advisory Board is required to enforce that remedy.

It is a well-established principle that an agency's decision not to enforce a law "is a decision generally committed to an agency's absolute discretion." *Heckler v. Chaney*, 470 U.S. 821, 831 (1985). This is because the decision often involves a complicated balancing of factors that are within the agency's expertise, such as whether: 1) a violation has occurred; 2) agency resources are best spent on this violation or another; 3) the agency is likely to succeed if it acts; 4) the particular enforcement action requested best fits the agency's overall policies; and 5) the agency has enough resources to undertake the action. *Heckler*, 470 U.S. at 831-832. Courts are reluctant to second-guess the agency in such cases because "it is most difficult to apply or even articulate a judicial standard by which the agency's discretionary decision might be deemed arbitrary or capricious." *Spencer v. Md. State Bd. of Pharmacy*, 380 Md. 515, 533 (2004).

As one commenter wrote, "Enforcement discretion is a hallmark of the modern American justice system and administrative state." *Enforcement Discretion and Executive Duty*, *Vanderbilt L. Rev.*, Vol. 67:3, 671, 768 (2014). Suffice it to say, then, the BOOST Advisory Board has the discretion to enforce or not enforce the provision in the BOOST law requiring noncompliant schools to reimburse MSDE for the scholarship funds they received. In exercising its discretion, the BOOST Advisory Board may find the above-mentioned factors useful. Ultimately, the enforcement decision involves balancing the public's interest in enforcing a nondiscrimination law with the practical impact that reimbursement would have on both the BOOST Program and nonpublic schools' ability to operate.

We hope this advice is helpful.

ADVICE OF COUNSEL  
NOT AN OPINION OF THE ATTORNEY GENERAL

## APPENDIX A: Examples of Handbook Language

### Cathedral Christian – Baltimore

Web page with handbook: <https://www.cca4100.info/parentstudent-handbook>

Direct link to handbook:

[https://docs.wixstatic.com/ugd/920236\\_7a441401a4ef40558178ab6fa46bbc65.pdf](https://docs.wixstatic.com/ugd/920236_7a441401a4ef40558178ab6fa46bbc65.pdf)

See Page 6:

|  |          |
|--|----------|
| <p><b><u>Requirements</u></b></p> <p>Cathedral Christian Academy, desiring to maintain its high standard of academic excellence and Christ-centered environment, has established the following requirements for admissions:</p> <p>A. PARENTAL SUPPORT: Our primary purpose at Cathedral Christian Academy is to build lifetime achievers by instilling an idealistic spiritual and educational foundation in all aspects of the lives of our students. Inasmuch, we will uphold the school's policies, procedures, and all standards set forth by the school by becoming active participants in the educational and non-educational arena as it pertains to C.C.A.. We will provide our child with the educational and spiritual support he/she requires by exemplifying Christian parenting, and the sharing of Scripture and prayer with him/her, and support/encourage the school's efforts to teach and cultivate Biblical values and lifestyles. We also agree to the school's discipline policies and codes, harassment policies, uniform policies and procedures, student pick-up and late pick-up policies, and homework/grading policies as outlined in the parent/student handbook. We understand that any violations against the rules and regulations may result in immediate dismissal from C.C.A. We will abide by the school's terms as defined and applied by</p> <p><i>Parent/Student Handbook</i></p> | <p>6</p> |
| <p>C.C.A.'s faculty and administration. We accept as true that "PARENTAL INVOLVEMENT EQUALS STUDENT SUCCESS."</p>  |          |

See Page 8:

|  |
|--|
| <p><b><u>Nondiscrimination Policy</u></b></p> <p>Cathedral Christian Academy admits students of any race, color, national and ethnic origin to all rights, privileges, programs, and activities generally accorded or made available to students at the school. It does not discriminate on the basis of race, color, national or ethnic origin in administration of its educational or admissions policies, scholarship, athletic and other school administered programs.</p> |
|--|

Spencerville Adventist Academy

Web page with link to high school handbook:

<http://www.spencervilleacademy.org/article/32/academics/student-handbooks-bylaws>

Direct link to high school handbook:

[http://www.spencervilleacademy.org/site/1/docs/High\\_School\\_2016-2017\\_Handbook.pdf](http://www.spencervilleacademy.org/site/1/docs/High_School_2016-2017_Handbook.pdf)

See Page 34:

**Sexual Misconduct**

"Spencerville Adventist Academy does not admit or retain individuals who engage in sexual misconduct, which includes non-marital sexual conduct, homosexual conduct, or the encouragement or advocacy of any form of sexual behavior that would undermine the Christian identity or faith mission of Spencerville Adventist Academy and the Seventh-day Adventist church."

"Spencerville Adventist Academy will respond to homosexual behavior rather than to feelings or attractions and welcomes as members for the student body, all whose behaviors meet the standards of the Seventh-day Adventist church. Students can remain in good standing if they conduct their lives in a manner that is consistent with teachings of the church relating to sexual orientation and behavior. A student stated same-gender attraction will not be considered a violation of school policy, however the school does require all in the student community to abstain from sexual conduct/activity. Homosexual behavior is inappropriate and violates the teachings of our faith, and includes not only casual relations between members of the same sex, but all forms of physical intimacy that give expression to homosexual feelings."

34 Spencerville Adventist Academy Handbook

Southern Maryland Christian Academy

Web page with handbook:

<http://www.somdchristianacademy.com/academics/>

Direct link to handbook:

[http://www.somdchristianacademy.com/wp-content/uploads/2017/10/SMCA\\_Student\\_Handbook\\_10-16-17.pdf](http://www.somdchristianacademy.com/wp-content/uploads/2017/10/SMCA_Student_Handbook_10-16-17.pdf)

See Page 26:

**9.1. SMCA Student Lifestyle Commitment**

The regulations and procedures included in the Handbook exist to assist you in your SMCA experience and to contribute to the accomplishment of SMCA's objectives and goals. Foundational to the mission and lifestyle commitment of SMCA is the belief that the Word of God establishes principles, which are to guide personal character development and govern behavior.

These principles include the responsibility to:

- Love God (Matthew 22:37). This involves a wholehearted commitment to know and obey God's Word as it applies to both thought and action, and management of our intellect, abilities, sexuality, relationships, and time.
- Love our neighbor as we love ourselves (Matthew 22:39). This involves the willingness to not be selfish and put others first. That is, to know their needs and to help them bear the burden of those needs.
- Be a friend to others. This means to be a person who is quick to forgive and to encourage. One also, at times, might need to lovingly, humbly, and courageously confront, rebuke, instruct, and correct one another (Matthew 18:15-17). It means to grieve when others are grieving and to celebrate when others are celebrating. It means to be careful to not offend others.
- To be a witness to others who do not know Jesus Christ as personal Savior. To be "salt" and "light" so that others may see Christ living through us.

It is important that all members of the SMCA family agree to live according to the SMCA lifestyle commitment and standards. Some aspects of this commitment reflect our Biblical convictions. For example, we believe the Bible clearly instructs us not to engage in slander, immorality, dishonesty, or other acts potentially harmful to others.

No married or pregnant students will be allowed to attend SMCA.

Other regulations reflect institutional preferences and their potential impact on the mission of the school. Examples of this lifestyle commitment would include uniform and appearance regulations, and respect for authority.

It is our desire that as you enjoy the privileges of being an important part of our family, you also willingly accept the responsibility of membership. Your enrollment is interpreted as a willingness to adhere to and support SMCA's standards and regulations. Those who fail to make acceptable adjustments to this distinctive kind of environment may be requested to withdraw at any time.

See Page 31:

**11.4.7. Expulsion from School**

A student may be expelled when he has accumulated nine reprimands in a quarter. When the administration determines that the student's actions warrant expulsion, a recommendation will be sent to the Board. Expelled students may not be on school/church property while school is in session, nor attend officially sponsored school activities without prior approval by the administration. If money is due on the account then all records will be held. If a parent chooses to withdraw a child prior to expulsion then full semester payment is due.

Including the above offenses for suspension, the following is a list of offenses which may result in expulsion. This list is NOT comprehensive.

- Sexual misconduct (including but not limited to: sexual intercourse outside of marriage, homosexual acts, etc.); Having or assisting someone in having an abortion; Bringing a weapon to school; Legal drug and illegal drug substance abuse (purchasing, possessing, selling, etc.); Purchasing, possessing or selling alcoholic beverages; Any situation involving a member of the opposite sex in a motel/hotel room; Violation of local, state, or federal laws; Sexual harassment; Racial harassment; Repeated Bullying/Intimidation; Communication which consists of gossip, slander, disrespect which can cause serious harm to others and to the SMCA family. "And if a house be divided against itself, that house cannot stand." (Mark 3:25)

St. Joseph's School – Beltsville

Web page with handbook:

<https://stjosrcs.weebly.com/student-handbook.html>

Direct link to handbook:

[https://stjosrcs.weebly.com/uploads/1/0/8/9/108934791/handbook\\_17-18\\_final\\_11.21.2017.pdf](https://stjosrcs.weebly.com/uploads/1/0/8/9/108934791/handbook_17-18_final_11.21.2017.pdf)

See Page 3:

## ADMISSIONS INFORMATION

### **Nondiscriminatory Policy**

St. Joseph's Regional Catholic School admits students of any religion, race, color, and national or ethnic origin to all the rights, privileges, programs, and activities accorded or made available to students of the school. It does not discriminate on the basis of religion, race, color, national or ethnic origin in the administration of its educational policies, admissions policies, or athletic and other school-administered programs. Students seeking admission to Catholic schools for reasons that violate Christian principles will not be admitted.

Highland View Academy

Link to full Highland View Academy 2017-2018 handbook:

<http://www.hva-edu.com/article/6/school-bulletin>

Excerpt of Highland View Academy handbook (shaded box on page 6):

quarter of the school year. Senior students may not enroll after the first quarter of the school year unless they are

5

Highland View Academy (HVA) admits students of any race, color, national and ethnic origin to all the rights, privileges, programs and activities accorded or made available to HVA students. We do not discriminate on the basis of sex, race, color, national or ethnic origin in the administration of our educational policies and procedures, scholarship awards, athletic or other school-administered programs. We do, however, reserve the right to deny admission to any individual who cannot benefit from enrollment based on past academic achievement, disqualifying learning difference or physical limitations, or whose personal or family lifestyle is not in harmony with the stated philosophy of Highland View Academy.

Furthermore, Highland View Academy does not admit or retain individuals who engage in sexual misconduct, homosexual conduct, or the encouragement or advocacy of any form of sexual behavior that would undermine the Christian identity or faith mission of Highland View Academy and the Seventh-day Adventist Church.

## Seventh Day Adventist Church Statement on Homosexuality:

**Link to statement:**

<https://www.adventist.org/en/information/official-statements/statements/article/go/-/homosexuality/>

**Text of statement:**

The Seventh--day Adventist Church recognizes that every human being is valuable in the sight of God, and we seek to minister to all men and women in the spirit of Jesus. We also believe that by God's grace and through the encouragement of the community of faith, an individual may live in harmony with the principles of God's Word.

Seventh--day Adventists believe that sexual intimacy belongs only within the marital relationship of a man and a woman. This was the design established by God at creation. The Scriptures declare: "For this reason a man will leave his father and mother and be united to his wife, and they will become one flesh" (Gen 2:24, NIV). Throughout Scripture this heterosexual pattern is affirmed. The Bible makes no accommodation for homosexual activity or relationships. Sexual acts outside the circle of a heterosexual marriage are forbidden (Lev 18:5-23, 26; Lev 20:7-21; Rom 1:24-27; 1 Cor 6:9-11). Jesus Christ reaffirmed the divine creation intent: "'Haven't you read,' he replied, 'that at the beginning the Creator "made them male and female," and said, "For this reason a man will leave his father and mother and be united to his wife, and the two will become one flesh?" So they are no longer two, but one"' (Matt 19:4-6, NIV). For these reasons Seventh-day Adventists are opposed to homosexual practices and relationships.

Jesus affirmed the dignity of all human beings and reached out compassionately to persons and families suffering the consequences of sin. He offered caring ministry and words of solace to struggling people, while differentiating His love for sinners from His clear teaching about sinful practices. As His disciples, Seventh-day Adventists endeavor to follow the Lord's instruction and example, living a life of Christ-like compassion and faithfulness.

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*This statement was voted during the Annual Council of the General Conference Executive Committee on Sunday, October 3, 1999 in Silver Spring, Maryland. Revised by the General Conference Executive Committee, October 17, 2012.*



Takoma Academy

Link to full Takoma Academy 2017-2018 handbook:

[http://docs.wixstatic.com/ugd/c0e8dc\\_07912d0031f54196b8438745abdcf627.pdf](http://docs.wixstatic.com/ugd/c0e8dc_07912d0031f54196b8438745abdcf627.pdf)

Excerpt of Takoma Academy handbook on page 16:

***Expectations in Regard to Conduct; Sexual Harassment and Awareness***

Takoma Academy, as a Christ-centered learning community, welcomes all those whose behavior and lifestyle are consistent with the beliefs of the Seventh-day Adventist Church. Regarding Human Sexuality, students can remain in good standing providing they conduct their lives in a manner that is consistent with the teachings of the Seventh-day Adventist church on sexual orientation and behavior. Takoma Academy does not admit or retain students who engage in sexual misconduct, which includes but is not necessarily limited to, non-marital sexual conduct or homosexual conduct; or those students who practice or appear to advocate for any form of sexual behavior or orientation that in the judgment of the school's administration is inconsistent with the Christian identity, teachings, beliefs, or faith mission of Takoma Academy and the Seventh-day Adventist church.

# **EXHIBIT 30**

**From:** Monica Kearns -MSDE- <monica.kearns@maryland.gov>

**To:** Beth Harbinson <csfbaltimoreed@hotmail.com>, "Elizabeth A. Green" <egreen@pklaw.com>, Linda Eberhart <Linda.eberhart45@gmail.com>, Matthew Gallagher <matt@goldsekerfoundation.org>, Nancy Grasmick <ngrasmick@mac.com>, Skipp Sanders <usualis@aol.com>, Camp Marva Jo <mjcamp@comcast.net>

**Cc:** Elizabeth Kameen <ekameen@oag.state.md.us>, "Dunklow, Alan" <adunklow@oag.state.md.us>, Debra Lichter -MSDE- <debra.lichter@maryland.gov>, Kenyatta DeCosta -MSDE- <kenyatta.decosta@maryland.gov>, James Klarman -MSDE- <james.klarman@maryland.gov>, Felicia Holloway Wise -MSDE- <feliciaholloway.wise@maryland.gov>, Kristy Michel -MSDE- <kristy.michel@maryland.gov>, Chandra Haislet -MSDE- <chandra.haislet1@maryland.gov>, Tracy Dusablon -MSDE- <tracy.dusablon@maryland.gov>, William Reinhard -MSDE- <william.reinhard@maryland.gov>, Christy Shockley -MSDE- <christy.shockley1@maryland.gov>

**Subject:** Re: BOOST - Responses from schools in "Category 3" of the legal advice memo

**Date:** Mon, 19 Mar 2018 17:31:39 -0400

**Attachments:** BOOST\_schools\_in\_Category\_3\_of\_legal\_advice\_memo\_on\_non-discr\_3-19-18.docx;  
Broadfording\_Christian\_Academy\_Handbook\_excerpt.pdf;  
Broadfording\_Christian\_Academy\_handbook\_ltr\_3-6-18.pdf

**Inline-Images:** changingMD.png

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As a follow-up to the email below:

There are 11 schools in "Category 3" of the legal advice memo concerning the non-discrimination requirements of the BOOST law. Broadfording Christian Academy just recently submitted its handbook to MSDE and we put it in Category 3. The Broadfording handbook had not been reviewed when letters were sent requesting clarification, but they provided a clarifying letter when they submitted their handbook.

Attached are:

- The revised list of "Category 3" schools (11 schools instead of 10).
- Excerpts of the Broadfording Christian Academy handbook.
- The letter provided by Broadfording accompanying their handbook submission to MSDE.

Thank you,  
Monica

On Mon, Mar 19, 2018 at 4:13 PM, Monica Kearns -MSDE- <[monica.kearns@maryland.gov](mailto:monica.kearns@maryland.gov)> wrote:

Dear BOOST Board Members,

At the February 21 Board meeting, it was decided that MSDE should gather additional information from schools that are in "Category 3" of the legal advice memo concerning the non-discrimination requirements of the BOOST law.

Information has been gathered and attached are several documents:

- The list of the 10 schools in Category 3.

**Exhibit  
80**

-- The letters that were sent to these schools requesting a response on how their handbook reconciles with the assurance the school signed regarding non-discrimination in admissions. The letters include the questionable statements in the handbooks.

-- Responses from the schools.

Thank you,  
Monica

--



Monica Kearns  
Assistant Superintendent, Division of Business Services  
Maryland State Department of Education  
200 West Baltimore Street  
Baltimore, Maryland 21201  
[monica.kearns@maryland.gov](mailto:monica.kearns@maryland.gov)  
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[Click here](#) to complete a three question customer experience survey.

--



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[Click here](#) to complete a three question customer experience survey.

# **EXHIBIT 31**

**BOOST Schools in Category 3 of the Legal Advice Memo on Non-discrimination Requirements  
Updated March 19, 2018**

1. Arundel Christian School – Hanover
2. Bethel Christian Academy – Savage
3. Broadfording Christian Academy - Hagerstown
4. Cathedral Christian Academy – Baltimore
5. Elvaton Christian Academy – Millersville
6. Grace Christian Academy of Maryland – Waldorf
7. Mt. Aetna Adventist School – Hagerstown
8. St. Joseph’s School – Beltsville
9. St. Louis School – Clarksville
10. St. Margaret School – Bel Air
11. Woodstream Christian Academy – Mitchellville

# **EXHIBIT 32**

**From:** Beckie Carbaugh <arcarbaugh@gmail.com>

**To:** Jamie Klarman <james.klarman@maryland.gov>

**Subject:** Re: Notice concerning application status for Nonpublic Textbook and Technology program

**Date:** Fri, 23 Feb 2018 07:32:12 -0500

**Inline-Images:** changingMD.png; image.png

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Thank you, Jamie, for sending this document. I appreciate the specific feedback as the BOOST has not given us any details. I'm uncertain how our policy goes against the initial requirements of the discriminatory admissions policy outlined in the state application. This document seems to elaborate and reinterpret the requirements.

Thank you for the clarification

-Beckie

On Tue, Feb 20, 2018 at 2:05 PM, Jamie Klarman <[james.klarman@maryland.gov](mailto:james.klarman@maryland.gov)> wrote:

Attached is a memo from our legal counsel. Please see page 2. The memo speaks to the requirements of BOOST, which is a separate program for nonpublic schools, but the non-discrimination requirements for BOOST are the same as those for the Textbook and Technology program and so the explanation also pertains to the Textbook and Technology program.

Please give me a call with any questions or if you feel we are misreading this statement.

Thanks,  
Jamie

From page 15 of your handbook:

**NORTH AMERICAN DIVISION OF EDUCATION LGBT STATEMENT**

Frederick Adventist Academy is a Seventh-day Adventist Christian school. Because of our beliefs, we prohibit students from engaging in any sexual conduct/activity, including same sex relationships. We have chosen to define sexual conduct/activity to include anything that advocates for, promotes or supports the homosexual lifestyle in any forum, including in social media. Sexual conduct/activity also includes any consensual sexual behavior that occurs before marriage, such as sexual intercourse, public displays of affection, intimate contact, homosexuality or behavior that exhibits a same sex relationship, pornography, and actions (for example, spending the night with someone of the opposite sex), that may lead to situations of temptation, regret and immoral conduct.

On Tue, Feb 20, 2018 at 7:34 AM, Beckie Carbaugh <[arcarbaugh@gmail.com](mailto:arcarbaugh@gmail.com)> wrote:

Hi Jamie,

Thank you for you letter. Could you please let us know what wording in our handbook specifically discriminates "student admissions on the basis of race, color, national origin, or sexual orientation,"?

Beckie Carbaugh

On Wed, Feb 14, 2018 at 2:42 PM, Jamie Klarman <[james.klarman@maryland.gov](mailto:james.klarman@maryland.gov)> wrote:

Please see attached letter.

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| Jamie Klarman

**Exhibit**  
66





Nonpublic Schools Program  
Coordinator

Maryland State Dept. of Education

Division of Business Services

[200 W. Baltimore Street](#)

[Baltimore, Maryland 21201](#)

[james.klarman@maryland.gov](mailto:james.klarman@maryland.gov)  
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[Click here](#) to complete a three  
question customer experience  
survey

--  
*Childhood should be a journey...not a race.*  
- Robert L. Johnson



Jamie Klarman

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[Click here](#) to complete a three  
question customer experience  
survey

--  
*Childhood should be a journey...not a race.*  
- Robert L. Johnson

# **EXHIBIT 33**

**From:** Monica Kearns -MSDE- <monica.kearns@maryland.gov>

**To:** mjhutt@thehutco.com

**Subject:** Textbook program handbook review

**Date:** Fri, 16 Feb 2018 10:56:17 -0500

**Attachments:** Enforcing\_Nondiscrimination\_and\_Reimbursement\_Memo\_OAG\_Advice.pdf

**Inline-Images:** changingMD.png

---

Dear Ms. Hutt,

Per our phone conversation, attached is a memo from our legal counsel. Please see page 2.

## Attorney-Client Communication

Please let me know if you have additional questions.

Thank you,  
Monica



Monica Kearns  
Assistant Superintendent, Division of Business Services  
Maryland State Department of Education  
200 West Baltimore Street  
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410-767-8863 (office)

[Click here](#) to complete a three question customer experience survey.

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# **EXHIBIT 34**



---

bethel christian academy

*Parent/Student Handbook*  
*2017-2018*

*8455 Savage-Guilford Road · Savage, Maryland 20763*  
*Main Phone: (301) 725-4673 · Fax: (301)490-0153*  
*[www.bethelchristianacademy.com](http://www.bethelchristianacademy.com)*

**Exhibit**  
**2**

Dear BCA Parents and Students,

Welcome to Bethel Christian Academy! BCA is proud to offer many fine educational and spiritual opportunities to our students. The faculty and administration are committed to providing a learning environment in which students can grow spiritually, academically, physically, and socially so that they can fulfill the purpose of God for their lives. We trust that you will take opportunity to make the most of what we offer.

This handbook states school policies and procedures as well as general information that will help you to understand our vision and to know how you can fit in and become a valuable part of this exciting learning community.

May this be a great year in the Lord!

The Administration

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**BCA reserves the right to make changes to policies or procedures at any time when deemed necessary by the administration and/or school board. Parents will be informed of such changes when they occur.**

***Please Note: Extended Care hours are considered part of the BCA school day. As such, all BCA policies apply during Extended Care.***

## ADMISSIONS POLICY

Bethel Christian Academy (BCA) is a ministry of Bethel Assembly of God. BCA does not require that families be professing Christians in order to enroll their children in the school. However, it should be understood that BCA exists unashamedly for the purpose of reaching families with the gospel of Jesus Christ and training and equipping young people to serve Him.

Students are accepted for admission based on an evaluation of prerequisite skills or a qualifying score on the BCA entrance exam, an evaluation of previous grades and behavior, and a pre-enrollment interview. Preschool through kindergarten applicants must meet our age deadline of September 1, and may be required to spend part of the day in a BCA classroom (i.e., shadow). Bethel Christian Academy is not equipped to facilitate the needs of special needs students, and all new students are admitted under a Performance Plan by which their academic progress and their behavior are evaluated during the 1<sup>st</sup> quarter of attendance.

Enrollment of students in Bethel Christian Academy is a privilege, not a right. Parents must agree to support the BCA Core Values and school policies. Middle school students are required to sign a Code of Conduct and parents must agree to support the enforcement of the Code of Conduct. Parents must understand that continued enrollment of their child(ren) is dependent on their support of the school, its staff, and its policies.

### Statement of Nondiscrimination

Bethel Christian Academy admits students of any race, color, and national or ethnic origin to all the rights, privileges, programs, and activities generally accorded or made available to students at the school. It does not discriminate on the basis of race, color, national and ethnic origin in administration of its educational policies, admissions policies, scholarship and loan programs, and athletic and other school-administered programs.

It should be noted, however, that Bethel Christian Academy supports the biblical view of marriage defined as a covenant between one man and one woman, and that God immutably bestows gender upon each person at birth as male or female to reflect His image. (Gen. 1:27, Gen. 2:23-24) Therefore, faculty, staff, and student conduct is expected to align with this view. Faculty, staff, and students are required to identify with, dress in accordance with, and use the facilities associated with their biological gender.

## STATEMENT OF FAITH

1. We believe in the scriptures of the Old and New Testaments as verbally inspired of God, and inerrant in the original writings; that they are of supreme and final authority in faith and life. (II Tim. 3:16,17; II Peter 1:20,21; Matt. 5:18; John 16:12,13)
2. We believe in one God, eternally existing in three persons - Father, Son, and Holy Spirit. (Ps. 83:18; Ex. 15:11; Mark 12:30; II Cor. 13:14; John 10:30; John 17:5,10; Phil. 2:5,6; Eph. 1:3-14)
3. We believe that Jesus Christ was begotten by the Holy Spirit, born of the virgin Mary, and is true God and true man. (John 1:12,14; Luke 1:35)
4. We believe that man was created in the image of God, and that he sinned. He thereby incurred not only physical death but also spiritual death which is separation from God, and that all human beings are born with a sinful nature, and in the case of those who reach moral responsibility become sinners in thought, word, and deed. (Gen. 1:26,27; Rom. 3:22,23; 5:12; Eph. 2:1-3,12)
5. We believe that God created mankind in His image, male and female (Gen. 1:27, Gen. 5:2) and, according to His word, marriage is a sacred union between one man and one woman (Gen. 2:18-24; 1 Corinthians 7:1-5; Mark 10:6-9; Romans 1:24-27) condemning a homosexual lifestyle (Romans 1:24-26, 1 Timothy 1:10).
6. We believe that the Lord Jesus Christ died for our sins according to the scriptures as a representative and substitutionary sacrifice, and that all who believe in Him are justified on the ground of His shed blood. (Rom. 3:24,25; I Peter 2:24; Eph. 1:7; I Peter 1:3-5)
7. We believe in the resurrection of the crucified body of our Lord, in His ascension into heaven, and in His present life there for us, as High Priest and Advocate. (Acts 1:9,10; Heb. 9:24; 7:25; Rom. 8:34; I John 2:1,2)
8. We believe in the local church, which was established by Jesus Christ. We believe in water baptism by immersion, as a public confession of our identification with Christ. (Acts 14:27; 20:17, 28-32; I Tim. 1:1-13; Titus 1:5-11; Heb. 20:25; Acts 2:41,42; I Cor. 1:2)
9. We believe in "that blessed hope", the personal, premillennial, and imminent return of our Lord and Savior, Jesus Christ. (I Thess. 4:13-18; Zech. 14:4-11; Rev. 19:11-16; 20:1-6; I Thess. 1:10; 5:9; Rev. 3:10)
10. We believe in the bodily resurrection of the just and the unjust, the everlasting blessedness of the saved, and the everlasting conscious punishment of the lost. (Matt. 25:46; John 5:28,29; 11:25,26; Rev. 20:5,6,12,13)

## MISSION

The mission of Bethel Christian Academy is to create an authentic Christian learning community to train students to know, love, and serve the Lord Jesus Christ and to equip them spiritually and academically to be lights to the world.

## VISION

The Bethel Christian Academy vision is to produce academically equipped young people who demonstrate their commitment to Christ by exhibiting love toward others, strong biblical convictions, and a desire to impact the world for Him.

## CORE VALUES

### Academic Excellence

- ❖ Rigorous academic program
- ❖ Excellent Christian teachers
- ❖ Engaging learning environment
- ❖ Mastery-based learning
- ❖ Biblical world view

### Authentic Christianity

- ❖ Salvation through faith in Jesus Christ
- ❖ The Word of God as the standard of truth
- ❖ Integration of faith with learning

### Advancing Community

- ❖ Integrity in relationships
- ❖ Partnership with parents
- ❖ Participation in school events and activities
- ❖ Development of gifts and talents
- ❖ Meaningful opportunities for ministry & outreach

## EDUCATIONAL PHILOSOPHY

“The fear of the Lord is the beginning of knowledge.” Proverbs 1:7

The concepts of a Christian school philosophy of education are derived from the Bible. Therefore, at the foundation of education at BCA are the following convictions:

- \* God is. He is sovereign in His world, and He is personal. (Ex. 3:14; Col. 1:16,17)
- \* Christ is the Creator and the Sustainer of the Universe. (Gen. 1:1; Jer. 32:17; Col. 1:16)
- \* Reality and truth are known through God’s general revelation in creation and through His specific revelation, the Bible, which is the Word of God. (Rom. 15:4; 2 Tim. 3:16-17)
- \* Jesus Christ is the Truth and He is the Source of all truth, for in Him are hidden all the treasures of wisdom and knowledge. (John 14:6; Col. 2:2,3)
- \* True values are perceived in the Word of God, not in the reasoning of man apart from God. (Prov. 2: 1-22)
- \* Life has a purpose. Man is to live his life as a response to his Creator and Savior, enjoying Him and endeavoring to please Him. (Prov. 19:21; Jer. 29:11; Eph. 2:10; Phil. 2:13; Rom. 8:28; Rom. 12:2))
- \* God gives differing abilities to each student. In addition, spiritual gifts are bestowed at salvation. (1 Co. 12:7-11; Rom. 12:6-8)
- \* Parents are responsible for the education of their children in the home, in the church, and in the school. The role of the school is to partner with parents in educating their children. (Deut. 6:6-9)

## GOALS AND OBJECTIVES

1. To provide a Christ-centered education, where the Word of God is an integral part of the entire curriculum and faith is integrated with all learning.
2. To instill an internal moral code of behavior in each student based on God's Word that will guide his/her in the decisions of life.
3. To maintain high academic standards with an educational program that will prepare a student to reach his/her fullest potential for the glory of God.
4. To impart to each student a sense of purpose and vision that will challenge him/her to give his/her utmost to fulfill the plan for which God has called him/her.
5. To train the whole individual:
  - A. ***Spiritually:*** to know Christ personally and to yield to His will in every area of his life. (John 3:16)
  - B. ***Mentally:*** to relate all truth to His truth and to discover and develop individual aptitudes; to cultivate critical thinking skills. (Prov. 4:7)
  - C. ***Socially:*** to understand and practice biblical principles for interpersonal relationships including conflict resolution. (Matt. 7:12)
  - D. ***Emotionally:*** to build a Christ-controlled personality, enabling each child to adjust to life's circumstances in a God-honoring way; to develop self-discipline. (II Tim. 1:7)
  - E. ***Physically:*** to develop a respect for the body as the temple of the Holy Spirit; to teach intelligent care of the body, and to encourage the yielding of the body as an instrument for God's use. (I Cor. 6:19,20)

## ACADEMIC ISSUES & AWARDS

### Curriculum

BCA uses a variety of curriculum materials including ABeka, BJU Press, Purposeful Design, Saxon Math, Shurley English, History Alive!, and Positive Action or CSI Bible. BCA has an objectives-based curriculum and some materials that are used in instruction have been specifically designed by the administration to meet those objectives. Consumable and non-consumable books are provided for student use. **If a book is lost or damaged, the student's account will be billed the replacement cost.**

### Library

Students may check out books from the school library for two weeks to read at home. No new books may be taken out until checked-out books are returned. If a book is not returned or is damaged, the cost of the book will be added to the student's account at the end of the school year.

On occasion, students may be transported to the public library to obtain research materials.

### Computer Lab

All students in 1<sup>st</sup> – 8<sup>th</sup> grade have computer class weekly where they learn keyboarding and software applications. Teachers may also use the computer lab to provide Internet resources to support instruction or for students to complete projects requiring computer use. The computer lab may be used after school hours if a student is working directly with a teacher on a school-related assignment.

### Technology Policy

Students have access to school computers for the purpose of research and/or producing school-related assignments. To safeguard the computer equipment and ensure the safety of BCA students, the following restrictions regarding computer use apply:

- Students may not use school computers without the supervision of BCA staff or faculty.
- Computers may be used only for school-related assignments.
- No food or drink may be consumed in the computer lab.
- No applications or games may be installed on school computers by a student or faculty member without express authorization from the administration.
- Established procedures for storing data will be used at all times.



## **Internet Use**

Because the Internet is an excellent resource to further students' studies, BCA has provided its students with limited Internet access. When accessing the Internet, the following rules must be followed:

- Students will only use the Internet for approved course work. Other use is strictly prohibited.
- No personal information (e.g., pictures, addresses, telephone numbers, and parents' names) will be posted on the Internet.
- Students who encounter inappropriate materials must immediately report the occurrence to the media supervisor.
- Students may view published web pages and cite information obtained from them appropriately. Caution must be taken to avoid plagiarism.
- Students will not vandalize, damage, or disable the work of another individual or organization.
- Students will not access, manipulate, alter or attempt to damage, disable or destroy technology or computer files.
- Students will not access, create or distribute harassing, pornographic, obscene, racist, sexually explicit, or threatening material, imagery or language.
- Students will not use school-provided Internet access for illegal purposes or for non-approved commercial purposes.
- Students and parents are required to sign an Acceptable Use Agreement each year in order to be allowed to use school computers.

## **Student Computers in the Classroom**

Middle school students have access to netbook computers for use in producing various written assignments in the classroom. Student netbooks are not to be taken home. Parents and students are required to sign a special use agreement for the student to be permitted to use these computers. BCA provides middle school students with a Google account for doing assignments using Google Apps for Education.

## **Tape Recording**

Bethel Christian Academy realizes that there are limited circumstances under which students may need to either tape record a class lecture or have another student tape record a class for them. However, it is the school policy that any students wishing to tape record a class or any part of the school day must obtain permission in advance from

the administrator. Any student who tapes a class or any part of the school day, regardless of the reason, without the express permission of the administrator is subject to suspension or expulsion.

## ***SPECIALS CLASSES***

### ***Art***

All elementary students take art for the entire school year; it is a one-semester class for middle school students. Students learn basic art skills and art history as they work on projects using a variety of media. Since an art show is part of the Christmas and Easter programs, middle school art students are encouraged to attend those programs even if they are not performing on stage.

### ***Music***

All Readiness – 5<sup>th</sup> grade students take music for the entire school year; it is a one-semester class for middle school students. Classes focus on vocal music, but may also include experiences with recorders or bells. Students learn the basics of music theory and may sing different vocal parts in a group performance. Students perform at various programs and events which are mandatory. Therefore, advance notice must be given if the student is unable to attend a scheduled performance.

### ***Physical Education***

Students in PreK – 8<sup>th</sup> grade have P.E. once a week. In this class, students learn the rules and gain various sports' skills. Instruction in physical fitness is also emphasized and the students participate in the President's Active Lifestyle Program each school year. A student's grade will be affected if he/she is not properly dressed for P.E. (Please refer to the Dress Code section.)

### ***Computer/Library***

Beginning in 1<sup>st</sup> grade, students take a weekly Computer class in which they learn typing and how to use Microsoft Office applications. They are also provided with instruction regarding a variety of classic genres of literature and how to find books in the library. Students may check out books to take home.

## ***MIDDLE SCHOOL ELECTIVES***

Electives for middle school students vary each year. They may include academic support classes or study hall as well as those listed below.

### ***Drama***

The focus of this class is to use drama to dynamically communicate God's principles

and His love. Foundations will be laid regarding the effective use of movement, music, staging, vocal expression, and character interaction. Students will perform such things as skits, monologues, drama to music, and will present a production at Christmas, Easter, and the spring Evening of Excellence.

### ***Worship Dance***

The focus of this class is to learn about the biblical basis for dance as a form of worship and the history of dance in the church. Students also learn a variety of dance movements for presentations at Christmas, Easter, and the Evening of Excellence as well as other school events.

***All special programs are mandatory for performing arts students.*** Unexcused absences will result in the student receiving a zero for the performance. To be excused from a performance, arrangements must be made ***well in advance*** with the drama, music, or dance teacher, except in the case of an emergency.

### ***Spanish***

Middle school students may elect to take Spanish. These classes are offered once a week. Students who are planning to enter special academic programs in high school should determine early the language requirements and consider taking a language course each year. Due to BCA Spanish classes being offered only once/week, three years of BCA Spanish is equivalent to one year of daily Spanish instruction.

### ***Life Skills***

This basic course offers skills that all young people need such as hygiene and personal grooming, financial management, sewing, home repair, meal planning, and cooking.

### ***Praise Team***

At Middle School, worship for Chapel is led by students. In order to participate in leading worship, students must take Praise Team as an elective where they will learn how to lead others in worship. Instrumentalists and vocalists may take this class.

### ***Public Speaking***

This class is designed to give students instruction and opportunity to develop skills in preparing and presenting various types of speeches. In addition to individual speeches, students may engage in preparing for and participating in a debate.

### ***Martial Arts***

Students learn basic body control and discipline, basic blocking, kicking, punching, three basic forms, hands-on defensive techniques as well as one weapons form.

## **Student Leadership**

This is not a scheduled class. It is a team of middle school students that works with a BCA staff advisor to plan events and work on projects for the advancement of the middle school. Students must apply to be on the leadership team. This team attends an annual conference for training in leadership skills. They meet during the lunch period and after school.

## **Chapel**

Once a week the students participate in a Chapel service in which they have the opportunity to worship and hear a message that is relevant to them. Parents are welcome to attend. Once a month, student awards are presented during Chapel.

## **Selection of Literature**

The reading and evaluation of literature is an essential part of each BCA student's education. Literature is evaluated by the administration to assess its appropriateness considering the maturity and reading ability of the students and the instructional goals of the course. The inherent worth of the literary work in terms of moral tone, gratuitousness of evil, and explicitness of evil is also evaluated. Because the teacher can point out an author's scripturally foolish perspective, works may be chosen to be used in the controlled environment of the classroom which are not suitable for independent, undirected reading. If a parent has a concern about a literature selection, the parent should contact the administration.

## **Homework**

The purpose of homework is to support and enhance classroom instruction. It is assigned to achieve specific instructional objectives.

BCA provides students in grades 3 – 8 with an assignment planner in which to write all homework assignments. Time is given in class to copy assignments from the board. In addition, homework is posted on RenWeb on a weekly basis. This is as a reference for parents in the event that a question arises; it is not meant to be the primary source of homework information although every effort is made to keep it accurate and up-to-date.

Because students need time to pursue non-school-related activities and to enjoy family time, it is BCA's intent that homework not be excessive. It should be understood; however, that what is excessive for one student may not be excessive for others.

### ***Expectations for Homework for the Average BCA Student***

|                |   |
|----------------|---|
| Preschool/PreK | No homework                                     |
| Kindergarten   | Approximately 15 minutes/night <i>as needed</i> |

|   |                                |
|---|--------------------------------|
| 1st– 2 <sup>nd</sup> grade              | Approximately 30 minutes/night |
| 3 <sup>rd</sup> – 4 <sup>th</sup> grade | Approximately 45 minutes/night |
| 5 <sup>th</sup> grade                   | Approximately 1 hour/night     |
| Middle School                           | Approximately 2 hours/night    |

\*The time the teacher estimates is required to complete the assignment may be noted on the assignment posted on RenWeb.

It is important to plan out long-term assignments to avoid an overload of homework at the last minute when projects are due. Students taking Algebra I should expect their homework load to be somewhat in excess of the above-stated guideline due to the advanced nature of the course.

Students who do not complete class assignments in the time allotted during class may be required to complete them at home. This work is not considered assigned homework, but indicates a lack of productivity in class and may result in the student spending more time than expected working at home. Some class work, however, cannot be completed at home, and failure to complete it in class will adversely affect a student's grade.

Students are expected to turn in homework on the day that it is due. Late homework is deducted a full letter grade and will generally be accepted only one day after the due date. Beyond one day late, the student will receive a zero. Missing assignments are noted on RenWeb and an email notification is sent to the parent. However, it is recommended that parents check to see that homework is completed each day and placed in the appropriate place in the student binder to be turned in on time.

Some subjects or assignments do not allow for work to be accepted late due to the nature of the assignment objective. For example, Math work is cumulative and if it is not completed for each lesson on time, the student's learning is impacted aside from the grade itself. Other assignments may need to be completed as a prerequisite to another learning activity and there is no instructional value to them being completed late. Therefore, in these cases, the teacher may refuse to accept the work late, and the student will receive a zero.

Although effort is made to avoid scheduling several major tests on the same day, there will be times when more than one quiz or test may fall on the same day. Students are encouraged to participate in class and to study throughout an instructional unit so that last-minute cramming will not be necessary.

## Organizational System

Research has determined that the primary factor in a student's school success is organization. BCA supports this objective by requiring that all 1<sup>st</sup> – 8<sup>th</sup> grade students utilize a specific organizational system for all school supplies and schoolwork. The required supplies are listed on the school supply list.

The student binder is the core component of the BCA organizational system. Each student is required to have a 3-ring binder containing one set of rings and a zipper closure. First grade students need 2-inch rings and 2<sup>nd</sup> – 8<sup>th</sup> grade students must have 3-inch rings. The binder is to contain:

- a zippered pencil case (stocked with required items)
- 2-pocket folder (for home-school communication) – **NOT for homework**
- an assignment planner (provided by BCA)
- blank notebook paper
- at least 10 plastic dividers with tabs, but NO pockets

It is the student's responsibility to keep the binder stocked with paper and other supplies as listed on the school supply list. The teacher will train the students in the proper set up of the binder and will conduct regular binder checks. The students will regularly “purge” the binder of old school work with the teacher in class. Parents and students should not attempt to clean out the binder at home to avoid discarding things that may still be needed. Parents should, however, check to assure that everything in the binder is in its proper place and hold the student accountable for complying with the requirements.

In order for the binder system to work effectively, a few things are of paramount importance.

- Every worksheet, test, handout, homework assignment, etc. must be dated and placed in the rings in the appropriate subject section of the binder.
- Most recent papers are to be placed in the front of each section (right after the divider) to be easily accessible.
- Students are not to put work papers in “pockets” in the binder nor in folders. Students are not to use spiral notebooks.
- **BCA students do NOT use a separate homework folder.**

## Preparedness for Class

For learning to occur, a student must be prepared. Students must avoid being:

- Unprepared for class – coming to class without textbook, paper, pencil, etc.
- Late to class – coming to class after school or the class period begins

When a student comes to class late or unprepared to do the work required due to lacking the necessary materials, he/she may have points deducted from his/her grade.

A school store is available at some campuses so that students may purchase supplies if necessary. Students may pay cash for the items or may have them billed to the parent if the parent signs an authorization to be billed.

### **Field Trips**

Field trips are a worthwhile way to teach concepts and expose students to experiences they would not otherwise receive at school. Each class will attend some school-funded field trips during the school year. Additional field trips may be scheduled at the parents' expense. These are considered optional. Field trips are scheduled at various times throughout the year. Notification of the specific time and place of each trip will be provided during the year. Written parental permission is required for a student to go on a field trip. Although BCA has procedures to take care of students with medical issues on field trips, parents of students with severe medical conditions will be given the option of attending as a chaperone. BCA's policy is that if a student is considered medically unstable or determined to be ill on the day of the field trip, he/she will not be allowed to participate. Although all the teachers are trained in basic first aid procedures, they are not trained nor equipped to deal with severe medical emergencies.

If a parent does not send in a signed permission slip for a student to attend a field trip, the student is to remain at home that day. Students **will not** be allowed to call the parent that morning for verbal permission. They will remain at school working on a related assignment and/or schoolwork if there is staff to monitor them. Otherwise, the parent will be called to pick them up.

Parents will be given the opportunity to chaperone on field trips. If selected for a particular trip, the parent will receive confirmation notification from the teacher or the school office. ***Parents are not allowed to take younger siblings on field trips.***

It should be noted that all school rules apply on all field trips and on all school-sponsored events on the school campus and away from it. Students may not bring cameras or other electronic devices on field trips. Chaperones may bring cameras, but may not post photos of students other than their own on any Internet site.

### **Academic Performance**

#### ***Honor Roll***

A/B Honor Roll: Students who have earned all A's and B's and above and have at least an S (Satisfactory) in Conduct.

Principal's Honor Roll: Students who have earned all A's and have at least an S (Satisfactory) in Conduct.

All classes count towards honor roll for middle school. Only core classes count for 1<sup>st</sup> – 5<sup>th</sup> grade.

### ***Academic Failure***

Students who earn a final grade of F in any academic subject (math, English, reading, science, history, or Bible) will not be promoted to the next grade. It may be possible for the parent of a student in this situation to make arrangements with the administration for summer remediation if the student has earned an F in only one subject. Summer remediation does not apply to 8<sup>th</sup> graders who have earned an F. They will not graduate.

Students who earn a final grade of D in any academic subject (math, English, reading, science, history, or Bible) **will be required to receive 30 hours per subject of documented private tutoring during the summer.** The tutoring must be approved in advance by the BCA administration and a report from the tutor regarding the hours tutored and the student's progress must be provided. Students who have earned a final grade of D will have the notation "Promoted with Reservation" on their final report card.

Many BCA teachers are available to tutor students who need extra support. The rate for BCA teachers doing tutoring on campus is \$40/hour plus Extended Care fees payable to the school.

### **Student of the Month Award**

Students who have exemplified a high standard in attitude, behavior, and academic diligence are honored as Student of the Month. Readiness – 5<sup>th</sup> grade students are nominated by their homeroom teacher. Middle school students are nominated based on having no missing or late work for the month and having received no demerits.

### **Student of the Year Award**

At the end of the year, a student may be selected from 1<sup>st</sup> - 5<sup>th</sup> grade and middle school to receive the Student of the Year award. The selection is made based on character development, academic diligence/achievement, leadership, serving, and spiritual growth and maturity. This award is presented at the end-of-the year Awards Assembly.

### **Academic Program Overview**

Preschool students are taught basic readiness skills and foundational academics such as letters, numbers, and Bible stories. In PreK, students begin to learn to read and increase



their knowledge and understanding of number concepts and handwriting skills. They also engage in enrichment learning in Social Studies and Science. Kindergarten students build on the foundation of phonics begun in earlier grades and truly master the fundamentals of reading. They also begin basic math computation. Kindergartners continue to improve handwriting and add composition to their skills along with more focused Social Studies and Science instruction.

In 1<sup>st</sup> – 8<sup>th</sup> grade, students are taught the core subjects of Bible, Math, Language Arts, Reading, History, and Science. An overview of the materials and specific subject matter is available on the BCA web site.

Student performance is assessed and recorded in a variety of ways. The parents of Preschool students receive a hard copy report of the student's progress in meeting annual objectives. PreK students receive a Quarterly Progress Report available on RenWeb indicating their progress in meeting quarterly objectives. Students in grades Kindergarten – 8<sup>th</sup> receive a Report Card available each quarter on RenWeb. The scales used to measure student performance are listed below:

### PreK Progress Scale

CD = Consistently Demonstrates Skill

MP = Making Progress in Demonstrating Skill

NY = Not Yet Demonstrating Skill

### Kindergarten Grading Scale

E = Excellent [High proficiency]

G = Good [Expected proficiency]

S = Satisfactory [Developing proficiency]

N = Needs Improvement [Lacks proficiency]

### 1<sup>st</sup> – 8<sup>th</sup> Grade Grading Scale

98 – 100 = A+                      88 – 89 = B+                      78 – 79 = C+

93 – 97 = A                              83 – 87 = B                              73 – 77 = C

90 – 92 = A-                              80 – 82 = B-                              70 – 72 = C-

68 - 69 = D+                      59 - = F (Failing)

63 - 67 = D                      I = Incomplete

60 - 62 = D-                      (M) = Modification\*

\*Modifications are made only for students who have documented special needs.

Most graded assignments and written assessments are scored for actual number correct out of the possible points or for percentage correct. However, some activities and assignments may be scored using a more subjective method as described in the table below or by using a criteria-based scoring rubric. When these symbols or a letter grade are written on an assignment, it holds the numeric value shown on the chart on the next page. Teachers may, however, choose to give a more precise numeric grade.

|                       |   |
|-----------------------|---|
| A+<br>√++ = 100       | Exemplary; exceeds expectations   |
| A<br>√+ = 95          | High proficiency in meeting the assignment objectives                                   |
| B<br>√ = 85           | Expected proficiency in meeting the assignment objectives                               |
| C<br>√- = 75          | Developing proficiency in meeting assignment objectives                                 |
| D<br>√-- = 65         | Lacks proficiency in meeting assignment objectives, but some skill evident              |
| F = teacher assigns % | Did not finish assignment, did not meet basic requirements, no proficiency demonstrated |

**Note:** Students who have been determined to have cheated or plagiarized on an assignment may receive a zero in addition to other possible disciplinary consequences.

## Conduct and Work Habits

### Conduct

The Conduct grade reflects a student's respectfulness, self-control, obedience, and ability to get along with others throughout the quarter. Behavior information is available on RenWeb and is updated on a weekly basis. If a student has earned four or more demerits during the quarter, an automatic email message containing the behavior report will be generated to the parent. This behavioral information will be considered when assigning the student's Conduct grade on the quarterly report card based on the following rubric. However, the number of demerits is not listed on the report card nor does it appear on the student's permanent record.

|                              |  |
|------------------------------|--|
| <b>E = Excellent</b>         | Requires little or no correction.  |
| <b>G = Good</b>              | Occasionally needs verbal correction but he/she responds appropriately.            |
| <b>S = Satisfactory</b>      | Not rebellious, but requires redirection.  |
| <b>N = Needs Improvement</b> | Requires multiple warnings and often requires additional consequences.             |
| <b>U = Unsatisfactory</b>    | Exhibits a pattern of misbehavior and/or has had a more serious behavioral offense |

### Work Habits

Students are expected to be prepared and attentive in class, to follow directions, and to complete work on time and in a quality manner. Students are taught specific study skills and are assisted with organization in class.

However, a student's personal work and study habits can impact his/her academic performance. The teacher will inform parents when a particular work or study habit is having a negative impact on the student's grade and comments may appear on the report card indicating a student's performance in this area.

### Penmanship

Students in the elementary grades receive a grade in Penmanship and once they have learned to write in cursive, they are required to do so. Fifth – eighth grade students are required to write in cursive handwriting and their grades in a particular class may be impacted by a failure to do so or by illegibility. However, students in these grade levels do not receive a separate grade for penmanship.

## **ANNUAL EVENTS**

### **Veterans Day**

The week of Veterans Day, the Chapel service at each campus is dedicated to those who have served or are currently serving in the armed forces. Parents are welcome to join us for this special service.

### **Grandparents Day**

BCA designates a day each year to honor grandparents. Grandparents are welcome to visit with their grandchild/ren in the classroom and enjoy a complimentary lunch. Please invite your child/ren's grandparents to attend.

### **Christmas Program**

In December, BCA students perform in special programs to honor Christ's birth. Programs typically include drama, dance, and music.

### **Moving Up Night**

In late January, parents are invited to attend this event and get a preview of the types of instructional activities and projects that their student(s) can expect in the next school year. Curriculum is available to review and teachers are present to answer questions.

### **Easter Program**

In the spring, BCA students perform in special programs celebrating the Resurrection. Programs typically include drama, dance, and music.

### **Evening of Excellence**

In the spring, students in 3<sup>rd</sup> – 8<sup>th</sup> grade participate in an “Evening of Excellence” by displaying projects created throughout the school year. Academic areas for which projects are displayed include Bible, reading, writing, science, history, and art. In addition, performances in music, drama, and dance may be presented.

### **Carnival/Field Day**

At the end of the school year, BCA holds a spring carnival and middle school field day. There are activities and events for students in all grades.

### **Kindergarten Graduation**

A special graduation ceremony is held during which students present performances related to things they have learned and receive a Kindergarten “diploma.”

### **5<sup>th</sup> Grade Promotion**

The 5<sup>th</sup> grade promotion ceremony provides an opportunity for 5<sup>th</sup> grade students to perform and welcomes them into middle school.

### **8<sup>th</sup> Grade Graduation**

Eighth-grade graduation is held on a special graduation night. All graduating students are required to attend.

## **ATTENDANCE**

In order to gain the most from school, each student must be in regular attendance. Parents are encouraged to establish a pattern of regular attendance unless health prohibits. Students should not be taken out of school for an extended period of time. If a student is kept home for health reasons, a call must be made to the school before 10:00 a.m. At this time the parent may request homework assignments for the day. Absentee assignments may be picked up at the school office after 3:00 p.m.

Chronic absenteeism on quiz, test, or exam days will be brought to the attention of the administrators.

Students that arrive late, leave early, or are removed from class for a middle-of-the-day appointment that results in being away from school for three hours or more will be

credited with one-half day of attendance. According to state law, if a student is absent from school for an accumulated number of thirty-five days per school year, he/she will not be promoted. This includes tardies that have been converted to absences.

Students serving suspensions are considered absent for purposes of “Perfect Attendance.” See “Discipline Policies” for information regarding missed work due to suspension.

### **Excused Absences**

Examples of excused absences are:

- Personal illness
- Death in family
- Appointment with doctor or dentist. (Such appointments should be made after school hours if at all possible.)
- Major traffic accidents and road conditions making travel dangerous.
- Family vacation (Prior notice is required.)

***In order for an absence to be considered excused, the reason for the absence must be stated in writing and signed by a parent or guardian.***

For excused absences, work may be made up according to the following guidelines. Assignments must be made up in the time equal to the number of days absent (i.e., one day absent - all make-up work must be made up in one day; two days absent - all make-up work must be completed within two days after returning.). This is to continue up to five days. Five days are the maximum number of days allowed for make-up work.

Tests or quizzes scheduled for the day a student was absent are to be taken the day the student returns unless the absence included the day(s) on which initial instruction was given for the test or quiz material. Students who are absent for an in-class review, however, are not given additional time to make up a quiz or test since instruction was provided and the student had the opportunity for personal study. Tests or quizzes for which the student was not present for the content instruction must be scheduled with the teacher so that appropriate instruction can occur prior to the quiz or test.

### **Unexcused Absences**

If an absent student returns to school without an acceptable written excuse from the parent, the absence is considered unexcused. A student with an unexcused absence will receive a zero for all missed assignments and tests for that day. Assignments that were due that day may be considered late and the grade deducted accordingly.

## Planned Absences

The student's teacher(s) should be notified at least two days prior to any planned absence. If prior notification is not received, the absence will be considered unexcused and the student will receive zeroes for assignments missed that day. Assignments that were due that day may be considered late and the grade deducted accordingly.

Teachers who are notified well in advance of a planned absence will do their best to provide the student with his/her work prior to the absence, which must then be handed in the first day the student returns to class.

## Returning to School after an Absence

Upon returning from an absence, all students must furnish a note to their homeroom teacher from their parent or guardian stating the date(s) and reason for the absence, and the signature of the parent or guardian.

If a student is absent for three consecutive days, the medication technician (MT) should be notified regarding the situation. A note from a doctor is required upon the student's return to school for absences in excess of two days and for communicable illnesses (i.e., chicken pox, measles, lice, etc.).

## Perfect Attendance

A Perfect Attendance award is given to students who have been physically in school for at least  $\frac{1}{2}$  day every day school is open. Regardless of the reason for a student's absence, if he/she was not physically present in school, he/she is not eligible to receive a Perfect Attendance award.

## Tardiness to School

It is important that every student arrive at school with sufficient time to unpack his/her backpack and prepare for instruction. The arrival times for each campus are:

***Middle School Campus Arrival 7:55 – 8:15 a.m.***

**Students must be unpacked and in the morning assembly by 8:15 a.m. or will be considered late**, with the exception of bus students. Late students must check in and receive a ***late pass***. After 8:25 a.m., parents must come into the building to sign the student in.

***Campus 3- Oakes Building Arrival 7:55 – 8:15 a.m.***

**Students must be signed in, unpacked, and in their classroom by 8:15 a.m. or will be considered late** with the exception of bus students. Late students must check in and receive a ***late pass***. After 8:15 a.m., parents must come into the building to sign the student in.

***Campus 1- Cox Building Arrival 8:00 – 8:25 a.m.***

Arrival after 8:25 a.m. is considered late and parents must come into the building to sign the student in.

**Excused Tardies/Lateness**

Examples of excused tardies/lateness include (but are not limited to):

- Appointment with doctor or dentist. (Such appointments should be made after school hours if at all possible.)
- Major traffic accidents and road conditions making travel dangerous.
- Serious or significant family situations

***In order for tardy to be considered excused, the reason (as indicated above) must be stated in writing and signed by a parent or guardian and provided at the time of arrival.***

**Unexcused Tardies/Lateness**

If a student arrives to school after the designated arrival window without an approved written excuse from the parent, the tardy is considered unexcused. A student with an unexcused tardy will receive a zero for any assignments and tests/quizzes missed during that time. Teachers who accept homework at the beginning of a class period may consider work turned in after that time as late and deduct a letter grade.

Being in class is critical to student learning. Therefore, five (5) unexcused tardies will be converted to one day absent and will be noted on the student's report card. This will affect "Perfect Attendance". Thirty-five absences will result in a student not being promoted.

**Tardiness to Class**

For students who change classes, there is sufficient time between classes or from lunch/recess for students to get to the next class on time. Students who are late to class may have points deducted from their grade. Students who are legitimately kept late by a teacher or staff member should ask that teacher/staff member for a pass to enter their next class without penalty. Students should report to their classes promptly and then ask to sign out to the rest room. Students are not permitted to just go to the rest room between classes; they must have permission from a teacher.

## COMMUNICATION

Communication between home and school is extremely important for partnership. BCA is committed to utilizing a number of means to provide parents with the information they need to enable their student(s) to excel.

### **BCA Web Site**

The BCA web site is maintained for the purpose of providing information about the school and school events on the Internet. A monthly calendar, events bulletins, and information regarding enrollment are some of the things available on this site. The web site address is <http://www.bethelchristianacademy.com>. A link to the RenWeb parent portal is available on this website as well.

### **RenWeb**

Bethel Christian Academy provides up-to-date school information online through RenWeb. Parents and students may access the student's account. The RenWeb web site provides attendance, health, academic and behavioral information as well as displaying homework assignments and information about school events and activities. Teachers can be contacted via email directly through RenWeb.

The "web forms" button on RenWeb allows parents to update student and parent information directly. Information such as changes in phone numbers or email addresses or emergency contact or pick up information can be updated using this option or by calling the school office.

### **BCA Calendar**

The yearly and monthly calendars are posted on the BCA web site and on RenWeb. In addition, a shared Google calendar is available for parents to link to in order to keep up-to-date electronically in regard to BCA events. Monthly calendars are also sent home.

### **BCA Publications**

Parents receive a monthly newsletter providing information about things that are happening in the school. A weekly email update is sent out to keep parents abreast of events and activities for the upcoming week.

### **Missing Homework**

If a student has had a missing homework assignment during the week, it will be noted on RenWeb and an automated email notification will be sent. However, it is possible that by the time it is noted on RenWeb, the student will have already earned a zero. Therefore, it is important for parents to check the student's homework each night to ensure that completed assignments are in the binder to be turned in on time.



### **Academic Progress**

Information regarding each student's academic progress and performance is available through the use of RenWeb. Grades on specific assignments and tests as well as the student's quarterly average are provided. In addition, email notifications are sent to the parents when the student receives a grade lower than 65% on an assignment or assessment. Teachers will also contact parents when a pattern of poor performance is noted.

### **Behavior Report**

Behavior information is available on a weekly basis on RenWeb. In the event that a student has earned an excessive number of demerits during the quarter, an automated email notification will be generated to the parent detailing the offenses.

### **Mid-Term Reports**

Since parents are able to access progress and performance information on a weekly basis via RenWeb, BCA does not publish a separate Mid-Term Report.

### **Report Cards**

Report cards give the students' letter grades for each class. PreK students are issue a quarterly Progress Report. Comments may be included as appropriate. Report cards are officially posted on RenWeb at the end of each quarter. Final report cards are mailed. Report cards will not be accessible unless the student's financial account is up-to-date during the school year and paid in full at the end of the year.

### **Parent-Teacher Conferences**

Parent-Teacher conferences are held twice during the school year. Readiness – 2<sup>nd</sup> grade conferences are scheduled directly with the teacher who sends out a notification of the date and a means of making an appointment.

In grades 3 – 8, the students have multiple teachers and the conferences are scheduled by the campus administrative assistant. Since these conferences may be with all of the student's teachers, it is not possible to have a conference with every parent on the day set aside for parent-teacher conferences. Therefore, priority is given to those parents whose students are earning two or more low C's or a grade below a C and for parents of new students. Other parents are welcome to schedule a conference on that day if there is a slot available or on another day after school. Middle school students are required to attend parent-teacher conferences.

### **Scheduling Conferences**

Parents may call the school office or send an email when an appointment is desired with the teacher or administrator. **Teachers may not be seen for impromptu questions,**

**conferences, or discussions, particularly at the beginning of the school day.** All meetings with a teacher must be scheduled in advance.

### **Visiting the Classroom**

Parents sometimes want to observe their student in the classroom environment. Observations in the classroom must be scheduled in advance with the teacher and are limited to one class period in order to avoid disruption to the classroom routine. Upon arrival, the parent is to sign in at the school office and obtain a visitor badge. The administrative assistant will notify the teacher of the parent's arrival.

### **Use of Telephone**

Students are not allowed to use the school phone. In the case of an emergency, the school will contact a student's parents. Personal cell phones are not permitted and will be confiscated. Arrangements for after-school activities should be made prior to the day of the activity. Personal messages from parents cannot be taken to children during school hours unless there is an emergency.

### **Parties**

Parents are welcome to provide refreshments during the lunch period for their student's birthday. In addition, there may be class or school-wide parties planned for a variety of reasons. Parents may be contacted to provide food contributions.

Invitations to personal parties are not to be distributed at school. A BCA family directory is available in RenWeb to facilitate relationship building. Parents may choose not to have their information displayed in the directory.

### **Handling Concerns or Complaints**

The following procedure is used by BCA faculty and staff and is taught to the students. Parents are urged to use this procedure as well since it is the plan given in God's Word.

#### ***If you have a concern/complaint:***

- **Pray.** Seek God.
- **Express your concern** promptly in a spirit of respect **to the proper person.** Concerns about a particular problem or situation should be expressed **to the individual involved.** Do not broadcast them. Express your complaint **only** to the person who should hear it. Unneeded worry, harm, and hard feelings result when problems and dissatisfactions are expressed to persons other than those directly involved. Your concern should be expressed to the administrator if you cannot work it out with that individual and no one else. (Matthew 5:23,24)

- Express it clearly and respectfully. Make sure the person to whom you are expressing your complaint understands the details of the situation and **exactly what you are complaining about and why**. Please focus on the issue and refrain from general accusations or personal attacks. Clearly state what you would like the person to do.
- **Pray about it.** Ask God to help you to make your complaint in such a way that it will result in a stronger partnership with the individual and the betterment of the school. Read and think about such passages as Ephesians 4:1-3 and Colossians 3:12-13. Pray about it.

*If you overhear or are told a concern/complaint:*

- Encourage the person communicating to express his/her concern/complaint only to the person who is a part of the problem or a part of the solution.
- Pray and ask God to take care of the situation. **Do not continue to listen to the details of the problem after you discern that you are not part of the problem or the solution.**

*If a complaint is made to or about you:*

- Understand what the complaint is and why it is being made.
- Give it prompt attention and agree on an effective solution.
- Make it a growth experience and learn from any mistakes.

Be sure to allow ample time for a problem to be resolved before contacting the administrator. Most of the problems that arise can be resolved by keeping the channels of communication open with the teacher. However, if a problem is not resolved, please contact the administrator for assistance in reaching a resolution. Administrators cannot address concerns of which they are not aware.

## DISCIPLINE PHILOSOPHY

Discipline is a biblical principle by which individuals are trained in righteousness (Heb. 12:6-11). Consistent, loving discipline enables students to learn to do what is right and to grow in every area of their lives. We recognize that “no discipline seems pleasant, but painful” to the one being trained by it. However, the fruit of righteousness that results from discipline will ultimately benefit the individual and those around him/her. Our commitment is to apply discipline “with great patience and careful instruction” and to base all correction on the Word of God (2 Tim. 4:2). When correction is necessary, our goal is to lead the student to repentance and restoration in a spirit of grace while preserving his/her personal dignity.

## Discipline Policies and Procedures

In order to maintain a classroom environment that is conducive to learning, the following behavior is not permitted.

- Being disruptive – intentionally causing a disturbance that draws class attention away from the learning task at hand
- Out of order – doing anything other than the task at hand whether it causes a disturbance or not
- Talking – persistent communicating during a time when talking is not permitted
- Rudeness – speaking/acting in an unkind, disrespectful, or demeaning manner to anyone; teasing
- Attitude lacking – displaying in word or action an unwillingness to submit to the instruction or correction of a teacher

When a student chooses to persist in any of these behaviors, the teacher will record the incident and will issue a consequence. A brief time-out during recess, lunch with the teacher, an essay assignment, a phone call to the parent, or other consequence may be issued. Behavior incidents which result in a consequence are noted through the posting of a demerit on RenWeb. If a pattern of misbehavior persists or an incident is more serious, a demerit will be given and the parent may receive a call from the teacher or an administrator.

- Intentional disobedience – serious willful rebellion/defiance

Intentional disobedience is considered a serious behavioral offense (*See Behavioral Offenses*) and is addressed as such. This behavior will be documented in RenWeb and the student will be sent to the administrator. The teacher or administrator will contact the parents to explain the incident and to discuss the disciplinary action to be taken.

Most BCA students receive no demerits throughout a quarterly grading period. Students who earn an excessive number of demerits in a quarter are considered to be in non-compliance BCA behavioral standards. A conference may be scheduled with the administrator and the parent(s) of any student who has exhibited a pattern of misbehavior. The administrator may place the student on a daily accountability plan or behavioral Performance Plan. Students who continue to demonstrate an inability or unwillingness to comply with BCA behavioral expectations may be asked to withdraw or may not be permitted to continue enrollment the following year.

## Middle School Code of Conduct

While students in preschool through elementary school are still very much under the control of their teachers, middle school students are expected to take ownership of their education and to make a personal commitment to controlling their own conduct. Therefore, they are expected to conduct themselves in the following manner:

1. Speak and act respectfully to teachers and staff members
  - Make eye contact
  - Speak in a quiet tone of voice at all times
  - Endeavor to portray only positive body language (no eye rolling, etc.)
  - Receive correction in an affirmative manner (Hebrews 12:11 "*For the moment all discipline seems painful rather than pleasant, but later it yields the peaceful fruit of righteousness to those who have been trained by it.*")
  - If a concern or conflict with an adult occurs, speak to the person respectfully in private at an appropriate time
  - Speak respectfully *about* those in authority
2. Speak and act respectfully to classmates
  - Communicate only positive things to others
  - Avoid talking *about* others (If it's positive, say it to them. If it isn't, don't say it at all.)
  - Respect other people's personal space
  - Respect other people's belongings
  - Stay out of other people's business
3. Obey school authorities (teachers, administrators, office staff, lunch room staff, extended care workers)
  - Do what you are asked to do without arguing or complaining
4. Comply with school rules
  - Be in the proper uniform/abide by the dress code
  - Be on time to school and class
  - Be prepared for class with assignments and materials
  - Do assigned work
  - Follow each teacher's classroom rules and procedures
  - No gum chewing on school grounds
  - Respect school property

## **Behavioral Offense Policies and Procedures**

Unfortunately, at times students commit offenses of a more serious nature. The offenses listed below may result in suspension or expulsion from BCA.

- Any communication of a sexual nature
- Cheating (including plagiarism)
- Destruction of property
- Forging a parent's signature
- Gossip/slander
- Harassment (incl. sexual)
- Inappropriate relationships (There is to be no physical contact or public displays of affection.)
- Leaving a designated area without permission
- Leaving school grounds
- Lying
- Offenses via the Internet and/or social media including, but not limited to, gossip, slander, threatening, teasing, bullying, profanity, crude communication, lying, and harassment, whether perpetrated on school property or from another location. A student may be required by the administrator to give access to his/her online accounts in the course of investigating such behavioral offenses. Refusal to do so may result in expulsion.
- Physical aggression/Fighting (whether the initiator/aggressor or not; includes hitting, punching, shoving, etc.)
- Possession of a weapon
- Possession of inappropriate items (e.g., alcohol, drugs, prescribed medications, or cigarettes)
- Profanity/crude communication
- Stealing
- Teasing/bullying/threatening
- Willful rebellion/defiance

***This list of potential behavioral offenses is not exhaustive. The administration reserves the right to use its discretion in determining whether behavior is serious enough to warrant suspension or expulsion even for a first offense. In addition, it should be noted that engaging in illegal or biblically immoral behavior at any time, including when off the school campus is grounds for suspension or expulsion.***

If a behavioral offense occurs, the parent will be contacted by the teacher who witnessed the offense or by an administrator. A demerit will be entered in RenWeb to

document the offense and to indicate the consequence. A meeting may be scheduled with the administrator.

If a second behavioral offense occurs, a conference with the parent, student, and administrator will be scheduled. The administrator may place the student on a daily accountability system and/or a behavioral Performance Plan.

### **Detention**

The administrator may issue lunch/recess detention as a consequence for misbehavior. Detention consists of the student being detained in an isolated, but monitored, location. Detention may involve completing a written assignment regarding his/her misbehavior.

### **Suspension**

If a behavioral offense requiring suspension occurs, the parent will be contacted by an administrator the day the offense is discovered. A demerit will be entered into RenWeb to document the offense and the disciplinary action to be taken. A meeting may be scheduled with the administrator. The suspension period will begin the day following discovery of the offense and will continue for a minimum of one school day.

Students who are suspended for a behavioral offense will automatically receive a grade of "U" (Unsatisfactory) in Conduct on the quarterly report card for that quarter. Since the student is not present in school during a suspension, he/she is not eligible for a "Perfect Attendance" award.

In the event that a student commits a second behavioral offense requiring suspension, the parent will be contacted to schedule a meeting for the parents and the student with the administrator. Prior to beginning the second suspension period, the requirements for ending the suspension will be agreed upon in writing.

After two suspensions, the student will be placed on behavioral probation for the remainder of the school year. Any additional behavioral offenses that occur during that period will result in the student being expelled or asked to withdraw.

Students who have been suspended more than once during the course of one academic year will be allowed to remain enrolled only under a behavioral Performance Plan.

### ***In-School Suspension***

BCA does not conduct in-school suspensions. All behavioral suspensions require that the student be completely removed from the school environment.

### ***Out-of-School Suspension***

If a student is suspended from school, it has been deemed in the best interest of the student body to have the student completely removed from the school environment for a period. Clear requirements for the student's reinstatement will be communicated to the parent(s). Students who are suspended from school are not permitted to make up class work, quizzes, or tests that are missed. The student will receive zeroes. However, homework and projects completed at home may be submitted upon the student's return to school, but may be considered late.

### **Expulsion**

If a student has been unresponsive to correction during the suspension process and/or there is no significant behavioral change over the time period determined by the administration, the student will be expelled or asked to withdraw from BCA. The administration reserves the right to expel for any one-time offense deemed of a serious enough nature.

## **DRESS CODE**

The BCA administration desires to provide an environment in which students can focus on their schoolwork and on developing their identity in Christ. Experimenting with the styles of the surrounding culture is best left out of the Christian school environment as it distracts from that focus. **We ask that parents and students submit to the spirit of this policy by avoiding dress and grooming choices that may be questionable.**

All students are expected to be in their proper school uniform every day. Clothes should always look clean and well-kept and should fit without being tight or too short. Persistent uniform violations will be deemed non-compliance with the BCA Statement of Cooperation and Agreement and the parent may be contacted by the administrator and other consequences applied, such as calling the parent to bring the student the proper uniform.

Students in grade 3 – 8 are required to have their shirts tucked in and must wear a belt. If a student is not in the appropriate uniform for the day, the student will receive a uniform violation. Uniform violations for students in grades 3 – 8 will result in recess detention for the day. Recess detention may involve a written assignment.

### **Hairstyles**

All students are expected to keep their hair clean, well-kept, and out of their eyes. Hair should be a natural color.



## Jewelry

Jewelry that does not present a classroom or student distraction may be worn. However, only ears may be pierced and only girls are permitted to wear earrings. Students may not wear “smart” watches that have Internet access, chat features, or email applications. Traditional watches are acceptable.

## ***UNIFORM OPTIONS***

Option components are not interchangeable. **\*These items MUST be purchased from Flynn & O’Hara Uniform Company.**

### **Option #1 for All Students**

- \*White, cardinal, or navy blue polo shirt (short or long sleeves) with flame logo
- Navy blue or khaki/tan colored uniform pants
- Belts worn must be plain black
- Socks should be navy blue, black, white, tan, or \*cardinal
- **Entirely black** shoes (***black sole, black strings/Velcro, minimum embellishments***) with heels not to exceed one inch

### **Option #2 for Readiness - Elementary Girls Only**

- White Peter Pan blouse (short or long sleeves)
- \*Plaid jumper (length should be at the knee)
- Socks or tights should be navy blue, black, white, tan, or \*cardinal
- **Entirely black** shoes (***black sole, black strings/Velcro, minimum embellishments***) with heel not to exceed one inch

### **Option #3 for Middle School Girls Only**

- White oxford blouse (short or long sleeves)
- \*Plaid uniform skirt (length should be at the knee)
- Socks or tights should be navy blue, black, white, tan, or \*cardinal
- **Entirely black** shoes (***black sole, black strings/Velcro, minimum embellishments***) with heels not to exceed one inch

### **P.E. Uniform (1<sup>st</sup> – 8<sup>th</sup> grade only; to be worn only on designated days)**

- \*White logo gym shirt
- \*Navy blue logo gym shorts (no shorter than mid-thigh)
- \*Navy blue logo sweatpants & \*sweatshirt (Sweatpants to be worn over the shorts during the school day. Wearing a sweatshirt is optional.)
- White **crew-style** socks (no skin visible)
- Athletic shoes (not fashion sneakers)

- BCA athletic spirit wear items may be worn with the PE uniform on the student's PE day.

### **Field Trip Uniform (*All students must have a field trip uniform.*)**

- \*Cardinal polo shirt (short or long sleeves) with the flame logo
- Navy blue uniform pants
- Plain black belt
- Navy blue socks
- Entirely black shoes (unless otherwise specified)

### **Warmer Weather**

In the fall and spring, students in Readiness – 5th grade may wear:

- Bermuda-length uniform shorts
- Bermuda-length uniform skorts (girls only) – may be worn with tights if desired
- \*White, cardinal, or navy blue polo shirt (short or long sleeves) with the flame logo
- Sock color should be navy blue, black, white, tan, or cardinal

### **Colder Weather**

A \*Prescott Red cardigan, plain navy blue cardigan, or the \*BCA logo fleece jacket may be worn in the classroom. Non-uniform sweaters and jackets are not permitted.

### **Clothing Items Not Permitted**

- Shorts out of season or shorts or skorts by middle school students
- Corduroy pants
- Casual pants (e.g., pockets on the leg, top-stitching on seams or pockets, back pockets with flaps, skinny, boot-cut, or bell-bottom style)
- Boots
- Long-sleeved shirts under short-sleeved uniform shirts

### **Undershirts/Clothing**

All underclothing worn under a shirt should be a color that is not readily visible through the student's shirt. This includes undershirts and bras. Underclothing with any emblem, decal, pattern, or artwork is not permitted. Undershirts should not extend beyond the outer shirt.

### **Dress for Extended Care**

Students who remain at school for afternoon Extended Care are to remain in their school uniform unless participating in a BCA-sponsored activity that requires other attire (e.g., BCA sports, dance instruction).

## Sports Uniforms

The sports fees cover the cost of team uniforms for BCA competitive sports teams.

## Identification of Clothing

Since the students wear uniforms, it is necessary that all items of clothing be labeled with the student's name. BCA cannot be held responsible for the loss of a student's clothing.

## Lost and Found

The *Lost and Found* is located in a designated place in each building. Every month these items are given to a local charity. Students are responsible for having their name on their belongings. BCA accepts no responsibility for discarding or donating items that have been left unclaimed in the Lost and Found.

# EXTENDED CARE

## Morning Care

Students who need to arrive at school early may be dropped off according to the guidelines and times listed below:

Cox Building Gym: 6:30 – 7:30 a.m. Students in any grade

**After 7:30 a.m. ONLY Readiness – 5<sup>th</sup> grade**

*Middle school students who are dropped off at Campus 1 will be transported to Campus 2 at 7:25 a.m.*

*After that, they MUST go directly to Campus 2.*

Middle School Campus Fellowship Hall: 7:30 – 7:55 a.m.

Oakes Building – No morning care provided

Cold breakfast available at Campus 1/Oakes Building only between 6:30 and 7:15 a.m.; purchases are billed to the student's account.

All students must be signed in to morning Extended Care. If brought to the Cox Building, the student must be signed in by his/her parent. Middle school students may sign themselves in or be signed in by the morning care worker. Supervision of students by school staff begins when a student is signed into Extended Care. BCA assumes no responsibility for students prior to 6:30 a.m. at Campus 1/Cox Building, prior to 7:30 a.m. at Middle School, or for students who have not presented themselves to have their presence acknowledged.

### **After-School Extended Care**

The Extended Care program is available to Bethel Christian Academy students only. Extended Care hours are considered part of the BCA school day. As such, all BCA policies apply during Extended Care.

Afternoon Extended Care is offered from 3:00 - 6:30 p.m. at Campus 1/Cox Building for students in Readiness – 2<sup>nd</sup> grade. Students in grades 3 – 8 have afternoon Extended Care at Campus 3/Oakes Building. ***Parents must sign all students out of Extended Care in the afternoon/evening.*** BCA does not assume responsibility for any students on the property after Extended Care closes (6:30 p.m. or when the last registered student is picked up.)

### **Student Behavior in Extended Care**

Students are expected to conduct themselves in the same manner as expected during the school day. When behavioral offenses occur, they will be documented by the Extended Care Coordinator and may result in the student receiving a demerit. Extended Care behavior will be reflected on the students' Conduct grade on their quarterly report card.

## **EXTRA-CURRICULAR SPORTS**

### **Academic Eligibility Policy/Procedure**

Eligible students in 5<sup>th</sup> grade and up may try out for the BCA sports teams. Students wishing to participate in the competitive sports program at Bethel Christian Academy must maintain at least a C in all subjects. Academic eligibility is determined at the end of each quarterly grading period. If a student falls below a C during the season at the evaluation period, he/she will be removed from the team.

### **Behavioral Eligibility Policy**

Students must demonstrate acceptable behavior in all school situations to be permitted to try out for and to participate in competitive sports. A Conduct grade of at least S (Satisfactory) is required. If, during the season, a student's Conduct grade falls below an S, he/she will be removed from the team. A student who is suspended for any behavioral offense may be removed immediately from the team at the judgment of the administration.

### **Athletic Participation/Commitment**

It will be necessary for students to attend practices scheduled after school hours. It is the responsibility of the parent to make arrangements for the student to be picked up when practice is over. Students who are not picked up will be placed in Extended Care, and the parent will be charged. Parents should not remove a student athlete from

participation on a BCA team as a family disciplinary measure as it can adversely affect the entire team. Participation in BCA sports is both a privilege and a commitment.

Students wishing to participate in athletics must have an annual **athletic physical**. The Sports Authorization form documenting the physical exam is in addition to the regular health inventory. If a student has been absent due to sickness during the school day, he/she will not be allowed to participate in a scheduled game the same afternoon.

A sports fee is charged for students who play competitive sports to cover the cost of uniforms, referees, gym charges, and league fees. BCA has boys' and girls' competitive basketball, girls' competitive volleyball, and cheerleading. In addition to competitive sports, intramural sports, and sports clinics may be offered.

### **School Colors & Mascot**

BCA's school colors are navy blue and burgundy. The school mascot is the Eagle, taken from Isaiah 40:31 *"Those who hope in the Lord will renew their strength. They will soar on wings like eagles; they will run and not grow weary, they will walk and not be faint."* BCA sports teams are the Eagles.

## **FINANCIAL INFORMATION**

### **Payment Schedule**

Bethel Christian Academy uses the FACTS Tuition Management Company. An account must be set up by the parent upon enrollment with BCA for automatic debits through FACTS for tuition and other school expenses. FACTS provides a monthly statement with itemized information regarding expenses due. Payment options include:

1. **Annual Plan** - full tuition for the year paid on or before July 25. Parents choosing this plan receive a 2% discount upon payment by cash, check, or money order. This discount does not apply to credit card payments.
2. **Semester Plan** – 50% payment no later than July 25 or the first month the student is enrolled if enrolled after July 25 and 50% payment due December 1.
3. **Bi-Monthly Plan** - payments starting July 10 and continuing until April 30 by direct debit or credit card.
4. **Monthly Plan** - Multiple monthly payments of equal amount beginning no later than July 25 or the first month the student is enrolled if enrolled after July 25 and continuing until April 30 by direct debit or credit card.

Throughout the school year, payments will be withdrawn according to the date set by the parent in FACTS. **Delaying a payment to another date or the next month will not be permitted.** All tuition must be paid by April 30.

If a student is enrolled in BCA's Summer Camp, arrangements for school year tuition for the next year can be made to begin in August and run through May 30. However, in that case, all tuition and fees must be paid for that school year in full before a student may participate in graduation or receive a final report card.

Tuition accounts that are past due at the end of a month will result in a student's report card being blocked on RenWeb and the student/parents will not be permitted to incur additional charges for Extended Care or hot lunch until a student's account is made current.

Bethel Christian Academy assesses a 1.5% late fee per month on any unpaid balance. If a student's account becomes more than 30 days in arrears, **the student will be removed from class attendance until the account is brought up-to-date.** If it becomes necessary to send an account to collections, Bethel Christian Academy reserves the right to assess a collections fee of 33% of the outstanding balance. Final report cards will not be mailed until the account is paid in full, and students may attend summer camp only on a cash basis.

### **Continuous Enrollment**

Bethel uses a continuous enrollment contract. This means that upon acceptance, parents sign an Educational Agreement that is continuous from year to year.

**That means students are automatically enrolled for all subsequent years until graduation unless the parent gives the school written notice by February 28 of the current school year that they are withdrawing the student for the following year.**

Therefore, unless written notice is received by the Finance Office by February 28 of the current school year, the expectation is that the student will attend Bethel Christian Academy for the entire next school year and the parent will pay the annual tuition.

A tuition deposit is withdrawn in two \$100 installments in March and April via FACTS. Required annual medical forms are mailed to the parents during the summer to be returned by the beginning of the next school year.

### **Tuition Refund**

BCA's general policy is that tuition obligations and payments are not refundable. Parents should refer to the Educational Agreement that they signed upon enrollment for details.

## **Hot Lunch**

Bethel Christian Academy offers a hot lunch program. A hot lunch menu is published monthly. Two options are available for purchasing hot lunch:

- Purchase of a meal plan to cover the entire year's lunches
- Be billed for individual lunches

Students who bring their lunch are not permitted to bring soda, and candy is discouraged. Students do not have access to a microwave oven.

The hot lunch menu includes pizza on Fridays. Each student will receive one slice of pizza at the regular lunch cost. Additional slices are \$1.00 each. Students who are planning to get pizza must sign up on Thursday so an accurate order can be placed.

## **Other Fees**

Most of the costs involved in educating a student at BCA are included in the tuition. However, there are some specific fees that apply to certain situations as listed below.

### Preschool Snack Fee

This fee covers the cost of the state-mandated snack provided by the school each day.

### Technology Fee

Students in 3<sup>rd</sup> – 8<sup>th</sup> grade have a greater exposure to technology during the school day and may be required to type and print out class assignments. This fee offsets some of the cost of this technology use and printing. However, this fee does NOT imply that every student may print out every assignment for every class at school as this is not practical within school-day time constraints. Homework assignments that are required to be submitted as a hard copy should be printed at home and brought to school on the date due.

### Sports Fee

Athletic fees are assessed for each individual sport for uniforms, gym use, transportation, league fees, and referee costs.

### Damaged/Lost Book Charges

BCA does not charge parents an annual book fee. Non-consumable books are on loan to the student and should be cared for accordingly. A charge will be assessed to cover replacement of lost or damaged non-consumable books. A student's account is also charged to replace any lost consumable books.

### Graduation Fee

A graduation fee will be applied to the accounts of Kindergarten and 8<sup>th</sup> grade students in April. This fee covers such things as caps and gowns, certificates, receptions, and

end-of-year trips. If the student's account is not paid in full (including the graduation fee) at the time of graduation exercises, the student will not be allowed to participate.

### Transcript Request Fee

A fee of \$15.00 will be charged for each transcript requested to be sent to another school. Transcripts are not given directly to the parent.

### Extended Care Fees

All students in Readiness - 8<sup>th</sup> grade will be charged the hourly rate of \$5.25 whether using Extended Care on a daily or occasional basis. Families with more than one student will receive a discount of 50% for each additional student utilizing Extended Care. It is school policy that students be supervised at all times. Therefore, students not picked up by 3:00 p.m. will be placed in Extended Care and parents will be charged.

In addition, Extended Care enrichment activities may have a separate materials and participation fee. **If a student is involved in one of these activities his/her account will be charged for Extended Care as well.** Students involved in BCA competitive sports are not charged for Extended Care during practice and game times.

Extended Care is available on a half-hour basis. Parents will be billed monthly for all accrued charges, and charges will appear on the monthly statement. Extended Care privileges will cease should a student's account become delinquent.

***If children are not picked up by 6:30 p.m., parents will be charged \$1.00 for every minute thereafter. For the second child, parents are charged \$.50 for every minute after 6:30 p.m.***

### **Withdrawal**

If it is necessary to withdraw a student before the end of the school year, a Withdrawal form must be completed and submitted to the Student Accounts office and BCA hardcover books and other school materials (i.e., novels, sports uniforms, and library books) must be turned in. The school will need the name and address of the school to which the student will transfer so that records can be sent and will only be released if all financial obligations are met. School records are not given directly to the parent. See "**Tuition Refund**" for policies regarding financial obligations when withdrawing.

## **FUND-RAISING & CONTRIBUTIONS**

### **Annual Fund-Raising**

BCA may conduct fund-raisers during the school year and opportunities are provided



for contributing to the growth and development of the school. Donations may also be solicited for specific needs such as technology for the classrooms.

### **Read-A-Thon**

During the summer months, BCA promotes reading for our students through a Read-A-Thon program. Students solicit pledges for each book that they read. When the students return in September, they turn in their pledges along with their signed reading list. Students reading a certain number of books will be acknowledged during Chapel in the fall.

### **Box Tops for Education**

Bethel Christian Academy collects Box Tops for Education which are used toward the purchase of needed equipment for the school (e.g., gym equipment, and projectors). Students may bring in box tops throughout the school year.

### **Grocery Store Receipts**

Parents are asked to select Bethel Christian Academy as their designated school on grocery store club cards. With these funds, the school is able to purchase things such as educational videos, printers, and athletic equipment.

## **INCLEMENT WEATHER**

BCA follows the same inclement weather procedure as Howard County. BCA information may also be posted on [www.bethelchristianacademy.com](http://www.bethelchristianacademy.com) and on RenWeb.

### **Delays**

When there is a delay, the regular arrival time for students will correspond with the called delay.

However, the delay for morning Extended Care is specified as follows:

- 1-hour delay, Extended Care opens at 7:30 a.m. at both campuses. No breakfast is available.
- 2-hour delay, Extended Care opens at 8:30 a.m. at both campuses. **If school is cancelled for the entire day, there is no Extended Care.**

### **Closings**

If Howard County schools are closed due to inclement weather, BCA will also close. However, there may be times when the public schools were already closed for a holiday

or other event and BCA is open. In that situation, the BCA administration will make a decision regarding closing and will post the information on the BCA web site, and on RenWeb, and will send out an email to parents by 6:00 a.m.

The BCA administration reserves the right to make an independent decision regarding the return of students to school after a snowfall that may differ from Howard County. If BCA is opening on a day that the county is still unable to do so, the administration will post the information on the BCA web site, and on RenWeb, and will send an email to parents by 6:00 a.m. that morning.

When extreme weather conditions make it necessary to close school earlier than usual, announcements will be made on TV and radio for Howard County; BCA will also try to contact parents by phone or email. Students must be picked up as soon as possible.

If school has to close early because of weather conditions, bus riders will be provided bus transportation home. Afternoon Extended Care will be cancelled.

## MEDICAL POLICIES

The Health Department requires immunization records for all students. No student will be permitted to attend school without a completed immunization form or waiver on file by the first day of school. New immunization records are only required when the student receives a new vaccine.

A doctor and the parent must complete a Health Assessment form for each student. These forms may be obtained from the school office and will remain on file in the office. Forms are to be updated when there is a change in the student's physical condition.

Students who become ill or need to take medication are to go to the school office. A trained Medication Technician (MT) will be available to assist these students.

All students who wish to participate in competitive sports must undergo an annual **athletic physical** and submit a Sports Authorization form signed by the doctor that is dated after June 15<sup>th</sup> of each year in addition to the regular health assessment. The

Sports Authorization form must be submitted to the school before a student may practice or participate in any competitive sports.

## School Emergency Medical Consent

Parents are to complete and sign an Emergency Medical Consent form giving Bethel Christian Academy and its officers permission to obtain medical assistance if an injury seems serious. This includes having the child transported to a medical facility if necessary.

Emergency contact information must be kept updated throughout the year. Updates can be made by calling the school office or by using the “web forms” on RenWeb. Parents are to pick up their sick child within one hour of being called.

If the Emergency Medical Consent form is not on file by the Wednesday of the first week of school of the new school year, the student will not be allowed to attend classes until the Emergency Medical Consent form is received.

***\*If a student is sent home during the school day due to sickness or is home all day sick, he/she will not be permitted to attend any after-school activities.***

## Medication

*BCA follows Maryland statutes regarding medication.* No prescription or over-the-counter medications (including aspirin, Tylenol, ibuprofen, cough drops, throat lozenges, vitamins, and homeopathic remedies) will be given to any student for any reason without **a written doctor's order**. A doctor's order for medication must be completed every year. This form with dosage and time requirements will be kept on file in the health office. Whenever possible, students should take medication at home. However, when necessary, a Medication Technician (MT) will administer medication at school.

Parents must give the first dose of any new prescription or over-the-counter medication prior to the student coming to school. This does not include PRN or emergency medications (e.g., EpiPen).

Medications to be given at school under a doctor's order must be brought to the office by the parent. Medication is not to be sent to school in lunch boxes or other containers. Students found with medication will have it taken away and parents will be notified. If a student goes to morning Extended Care, all medications should be given to the adult worker. All medication is administered by a trained MT when the student is at school. On field trips, medications may be administered by the teacher if needed. The MT will notify the parents when additional medication is needed at school.

All medications must be in their original containers. When filling a prescription, parents should request a school bottle from the pharmacy. All medications must be supplied by the parents for school use. Any leftover medications will be returned to the parent at the end of the school year.

In compliance with school health standards (COMAR 13A.05.05.05--.15), medications are stored in a locked cabinet. Access to this space is under the authority of the MT and administrator.

A record will be maintained in the school office indicating each time a medication is given. Upon administering medication, the parent will be notified what medication was given, at what time.

Emergency medication (i.e., epiPen) is available at the school for allergic reactions that are unforeseen. Parents must have signed an authorization for their student to be given this medication in the case of an unforeseen emergency.

### **Illness**

A student is considered sick if he/she has/is:

- A fever. That is defined as a temperature of 99.0 or greater. A student should be fever-free without medication for ***more than*** 24 hours before returning to school.
- Vomiting or diarrhea. A student should not have thrown-up or had diarrhea for 24 hours before returning to school.
- Starting on antibiotics. A student is contagious until he/she has been on antibiotics for 24 hours.
- Yellow, green or any color mucous. Whether it is blown out or coughed up, colorful mucous indicates infection. A physician should evaluate the student because he/she may need antibiotics.
- Inflamed, crusty, red, or runny eyes. A student with these symptoms needs to be evaluated by a doctor for possible conjunctivitis. If bacterial conjunctivitis is diagnosed, the student will need antibiotic eye drops. The student must be symptom-free or on medication for 24 hours or have written clearance from a doctor to return to school.
- Stiff Neck. A student must be symptom-free or have a note from a doctor to return.
- Unusually sleepy, lethargic, or grumpy. A student must be symptom-free for 24 hours.

- Skin lesions that are severe, weeping, or pus filled. The student must be symptom-free or on medication for 24 hours or have written clearance from a doctor.
- Nausea. Student must be symptom-free for 24 hours before returning to school.
- Difficulty breathing or wheezing. A student must be symptom free for 24 hours.

The state health department has issued the following information regarding communicable diseases and quarantine times.

- Ringworm. A student suspected of having ringworm needs to be evaluated by a doctor. The student may return 24 hours after beginning of treatment and requires a doctor's statement to verify medication and treatment. Area must be covered with a dressing at school.
- Strep Throat. A student with sore throat and fever should be evaluated by a doctor for possible strep throat. A student may return 24-48 hours after beginning treatment with antibiotics.
- Chickenpox. Student may not return to school for 6 days from onset of rash and all pox should have dry scabs.
- Conjunctivitis. Student must be symptom-free, on antibiotics for 24 hours, or have written clearance from a doctor.
- Impetigo. A student may return 24 hours after beginning treatment or with written clearance from a doctor.
- Fifth Disease. Parent must notify the school nurse.
- Lice. Student may return to school after receiving treatment with a pedicilize shampoo and all nits have been removed

Students displaying any of the above symptoms should not be sent to school. Parents will be called to pick them up.

### **Injury or Illness at School**

All students who are injured or become ill during the regular day will be escorted to the school office. In case of injury, a teacher or staff member will escort the student to the MT's office and an accident report will be completed. Basic first aid will be provided. Parents will be notified if the injury is more serious than a minor bruise or scrape and proper professional medical attention will be sought.

If a student is complaining of a sickness (e.g., headache, stomachache, sore throat) and/or is running a fever, the parent will be called and is required to pick the student up **within one hour**.

Working parents should make arrangements before the school year begins regarding who will be responsible for picking up a sick child. BCA does not have the resources to provide care for a sick child while parents complete their day at work or try to find someone to pick up their child. Therefore, since a staff member must be designated to stay with a sick child, **parents will be charged an extended care fee of \$5.25/hour for the time the student remains in school beyond the required one-hour pick-up window.**

When parents send a student to school, they should be aware that other students will be present and that the students may be playing on the blacktop, on the field, in the gym, and on playground equipment. There are inherent risks involved in the activities associated with multi-student play and playground play in general. As such there is an “assumption of risk” on the part of the parent that is not transferred to the school or the school personnel. Therefore, barring “contributory negligence” on the part of the school or the school personnel, the parent bears the sole responsibility for any medical expenses incurred as a result of injury while the student is on school property.

### **Food Policy and Management of Food Allergies**

BCA will assist in providing students who have food allergies with a safe school environment which allows them to participate in all aspects of school life with their peers. The school recognizes that nut and peanut allergens are the most likely to cause a life-threatening allergic reaction. BCA provides a table in the lunchroom where students who have food allergies may choose to sit and eat. Students are encouraged to wash their hands before and after eating. Students are prohibited from sharing food. All tables are cleaned between lunch shifts.

When planning a party in the classroom, special arrangements can be made for students with allergies. If a parent is bringing in food for a birthday, notice should be given to the teacher so that student allergies can be taken into account. Arrangements can be made with the teacher or MT for the refrigeration of foods for a child with allergies if medically necessary.

While it is important to prevent exposure to food allergens whenever possible, BCA cannot and does not guarantee total elimination of these foods at school. The school does not completely ban any particular food. In addition, the school is not responsible for checking every ingredient in a meal when a child purchases hot lunch. It is the parent’s responsibility to have checked the ingredients of the prepared food.

Parents are asked to fill out a health history for their child prior to school. All health records are reviewed and appropriate staff is informed when there is a child in class

who has a food allergy. Staff members who care for students are trained in the administration of the EpiPens in an emergency. The school cannot be held negligent in not providing for a child whose parent has not indicated the existence of an allergy.

\*For more details, please refer to the BCA Health and Safety Manual.

## PARENT INVOLVEMENT

The administration desires to promote parent partnership. Opportunities to get involved may include:

### The BCA STEM Initiative

This initiative needs parents to help out in a variety of ways.

- Share your expertise by conducting a workshop, demonstration, or activity in the classroom.
- Help to create/compile a resource booklet of parents willing to come in on a scheduled basis to conduct an activity.
- Lead or participate with a focused STEM club for an Extended Care club session.
- Lead or assist a team in a STEM-focused competition such as *Technovation* or *Destination Imagination*

### Parents In Partnership (PIP)

BCA's parent organization is made up of committees that focus on various aspects of school support. At the beginning of the school year, parents are invited to join a committee such as the Prayer Committee, the Events Committee, or the Teacher Support/Appreciation Committee. New committees may form as parents express interest and are available to provide leadership.

PIP committees facilitate parent volunteers to do such things as:

- Helping with school programs
- Helping with the student Thanksgiving luncheon
- Manning a station at the annual Field Day and/or Carnival
- Leading an Extended Care club
- Assisting with vision or hearing screening
- Tutoring students who need additional academic support
- Copying and/or laminating materials for a teacher
- Being a "room parent"
- Assisting in the library
- Monitoring lunch and/or recess
- Arrival car duty

## Coaching

Coaches are needed for soccer, basketball, baseball, running club, and cheerleading squad. It is not necessary to have a child on the team in order to volunteer to coach. For more information about coaching requirements, contact the Athletic Director.

# SAFETY & SECURITY POLICIES

## Student Safety

At times, unexpected events occur for which staff and students need to be prepared. BCA has specific procedures for fire or other disasters that may occur including locking down the school from intruders. The school conducts fire drills and other types of safety drills during the school year.

In the event of an actual crisis requiring a school lockdown, parents will be contacted by email and provided with specific information and guidelines for picking up their child.

## Building Security

To ensure the security of BCA students and staff, all exterior doors are kept locked. No one is to be let into the building except through the designated entrance. All parents and visitors are to sign in at the school office and get a visitor badge before proceeding into the school areas of the building. If someone is noticed in the building without a visitor's badge, he/she will be directed to the school office to sign in. **Parents are required to make an appointment to visit the classroom or to meet with a teacher.**

BCA buildings are monitored by security cameras inside and outside. Anyone on the Bethel Assembly and BCA property may be recorded at any time while on the property. Note that a person's coming onto the church or school property is considered consent to record. There are no cameras in the classrooms.

## Release of Students

Students are released only into the care of their parents unless written authorization has been given to release the student to another individual. Such written authorization is kept on file in the school office. When anyone arrives to pick up a student, he/she must be listed as an authorized individual and must show one of the following means of identification: BCA car sign or photo ID. In the case of parents who are separated or divorced, legal documentation must be on file indicating which parent has legal custody of the children or that the custody is held jointly. BCA cannot deny a parent access to his/her child or refuse to release the child to a parent without legal documentation.



If the student is to be picked up by someone who does not regularly do so, the parent should send in a note to that effect that day. Students are not permitted to call parents at dismissal time to get permission to go home with a friend.

### **Security of Personal Property**

In order to ensure that a student's personal property is not lost, stolen, or broken, BCA prohibits bringing any non-school-related items to school. If a student violates this prohibition, BCA cannot be held responsible for loss or damage. Should an item be brought to school against school policy, the item will be confiscated and must be claimed by a parent. This includes, but is not limited to, hand-held electronic games, CD players, iPods, cell phones, cameras, and sports equipment. Reading material brought to school may be confiscated by the student's teacher or an administrator if it is deemed inappropriate for school. Prohibited items that are confiscated from students may be examined for content.

Students in Readiness - 2<sup>nd</sup> grade are provided with a locker or cubby space in which to store their personal school-related items. In 3<sup>rd</sup> – 8<sup>th</sup> grade, students are required to have locks for their lockers and school-related items are to be kept with the student in the classroom or placed in the student's locker. Lockers are to be accessed only before and after school and during designated locker breaks. Lockers should be kept locked at all times. Students are not to give out their locker combinations to friends. In the event that an item becomes missing, the student should notify the teacher immediately so that a search can be conducted. Locker inspections are conducted on a regular basis, and the BCA administration reserves the right to search student lockers, backpacks, and personal possessions at will. Any student found to have taken another student's or a teacher's belongings will be subject to suspension or expulsion.

Cameras, phones, and other electronic devices may not be brought by students on field trips. Chaperones may bring cameras, but may not post photos of students other than their own on any Internet site.

## **TRANSPORTATION**

### **Arrival**

***Middle School Campus***                      ***7:55 – 8:15 a.m.***

Students must be unpacked and in the morning assembly by 8:15 a.m. or will be considered late, with the exception of bus students. Late students must check in with the appropriate person and receive a ***late pass***. After 8:25 a.m., parents must come into the building to sign the student in.

***Campus 3 – Oakes Building 7:55 – 8:15 a.m.***

Students must be signed in, unpacked, and in their classroom by 8:15 a.m. or will be considered late with the exception of bus students. Late students must check in with the appropriate person and may receive a *late pass*. After 8:15 a.m., parents must come into the building to sign the student in.

***Campus 1 – Cox Building 8:00 – 8:25 a.m.***

Arrival after 8:25 a.m. is considered late and parents must come into the building to sign the student in.

Beginning at 8:00 a.m., the parent is to pull up to the curb as far forward as possible and discharge the student(s) at the designated entrance. The driver should remain in the car while the student gets out of the car. At the Cox Building, staff members will be at the curb to assist students until 8:25 a.m.

**Bus Service**

Families living in Howard County are encouraged to use the free public busing available to and from Campus 1. Students must be at least 5 years-old to ride the school bus. 3<sup>rd</sup> – 8<sup>th</sup> grade bus riders are then shuttled to and from their respective campuses. A list of the bus stops is available from the school office.

**Bus Conduct**

Students are expected to maintain the same behavior standards on the bus that they do during the school day. Any student not complying will receive the following:

- 1<sup>st</sup> Offense: Verbal warning
- 2<sup>nd</sup> Offense: 1 week of bus suspension
- 3<sup>rd</sup> Offense: Removal of bus riding privileges

**Walkers**

Students who live nearby are permitted to leave the campus at the end of the school day to walk home only if written permission from their parents is on file.

**Campus to Campus**

Parents are asked to sign a general transportation permission slip allowing BCA teachers or staff to transport students between campuses and to the local public library for a variety of reasons (e.g., to use the gym, for special presentations, research).

## Dismissal

Students at each campus are to be picked up on a staggered schedule.

- Readiness – Kindergarten – 2:40 p.m. at Campus 1/Cox Building
- 1<sup>st</sup> & 2<sup>nd</sup> Grade – 2:45 p.m. at Campus 1/Cox Building
- 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup> Grade – 2:50 p.m. at Campus 3/Oakes Building
- Middle School – 2:50 p.m. at the Middle School Campus

At 3:00 p.m., all students who have not been picked up will be signed into Extended Care.

Parents are to stay in line for the student to get in the car. ***Parents and/or pick-up designees will not be allowed to enter the building to pick up students during the 2:30 – 3:00 p.m. dismissal window.*** Parents or other pick-up designees who want to come into the building to get a student, must park in a parking space (not the pick-up line) and wait until 3:00 p.m. to come in and sign out the student.

If a parent needs to pick up a child for ***early dismissal***, contact with the school must occur in advance and pick-up ***must occur before 2:30 p.m.***

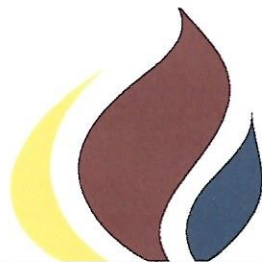
All cars must display a BCA car sign with the student's name to identify the car as an authorized vehicle for picking up the student. Written authorization is required for anyone other than the student's parent(s) to pick up the student. Anyone picking up a student without a BCA car sign will be asked to park and come in to show his/her identification.

For any parents who have students in middle school and at one of the other campuses, the middle school student should be picked up first. The parent should then proceed to the other campus.

Only students that ride the bus, are participating in sports, or who attend afternoon Extended Care will be transported from the Middle School on the BCA shuttle. Parents should not wait at one building for their student to be brought over from other buildings for regular pick up as there is not enough room on the shuttle to accommodate this.

All students are to remain on the school grounds upon arriving in the morning and are not to leave until dismissed at the end of the school day unless signed out by an authorized person.

# **EXHIBIT 35**



## bethel christian academy

Exhibit  
11

March 13, 2018

Dear Ms. Kearns:

This letter is BCA's response to the question raised by the BOOST Advisory Board regarding how Bethel Christian Academy's student handbook "reconciles with" the assurance BCA signed regarding non-discrimination in student admissions.

As a condition of participating in the BOOST program, BCA indicated that it does not "discriminate in student admissions on the basis of race, color, national origin, or sexual orientation."

BCA's Statement of Nondiscrimination reads as follows:

Bethel Christian Academy admits students of any race, color, and national or ethnic origin to all the rights, privileges, programs, and activities generally accorded or made available to students at the school. It does not discriminate on the basis of race, color, national and ethnic origin in administration of its educational policies, admissions policies, scholarship and loan programs, and athletic and other school-administered programs.

BCA also states as follows:

Bethel Christian Academy supports the biblical view of marriage defined as a covenant between one man and one woman, and that God immutably bestows gender upon each person at birth as male or female to reflect His image. (Gen. 1:27, Gen. 2:23-24) Therefore, faculty, staff, and *student conduct* is expected to align with this view. Faculty, staff, and students are required to identify with, dress in accordance with, and use the facilities associated with their biological gender.

As I understand it, the BOOST Advisory Board has raised a concern that this secondary statement is somehow incompatible with BCA's assurance that it does not discriminate on the basis of sexual orientation in student admissions.

BCA believes that its admissions policies and practices are consistent with its assurance.

The statement about marriage and gender identity by its very terms is a statement of belief and expected conduct that applies only to BCA students (and faculty and staff) indicating that a student *has been admitted*. It says nothing about applicants for admission or the admissions

process. Bethel Christian Academy does not ask any questions about sexual orientation at all during the admissions process and is willing to enroll any student who meets the academic criteria and whose past school conduct has not been demonstrably disruptive in a previous school. Once a student is admitted, he/she is expected to comply with behavioral expectations and is subject to disciplinary action for violation of those behavioral standards, including engaging in sexual behavior of any type, whether heterosexual or homosexual.

Because the assurance pertains only to admissions decisions, the conduct policies that BCA applies to already-admitted students are irrelevant to the assurance it signed to participate in the BOOST program.

In light of the foregoing, I am confident you will agree that there is no incompatibility between BCA's admissions policies and the assurance it executed to participate in the BOOST program.

Please let me know if you have any questions.

Sincerely,



Claire M. Dant  
Principal

# **EXHIBIT 36**

**From:** Valerie Carpenter -MSDE- <valeriej.carpenter@maryland.gov>

**To:** Donna Gunning -MSDE- <donna.gunning@maryland.gov>

**Subject:** Re: Lighthouse Christian Academy - Cumberland

**Date:** Wed, 26 Sep 2018 16:41:35 -0400

**Attachments:** BOOST\_Letter\_from\_Lighthouse\_Christian\_School.pdf

**Inline-Images:** changingMD.png; changingMD(1).png; image.png

No. The information was left in Monica's notes. Please find attached the withdrawal letter from Lighthouse dated November 15, 2017.



Valerie Jennings Carpenter, MPA  
Nonpublic Schools BOOST Program  
Program Manager  
Maryland State Department of Education  
Office of Policy and Fiscal Analysis  
200 West Baltimore Street  
Baltimore, Maryland 21201  
[valeriej.carpenter@maryland.gov](mailto:valeriej.carpenter@maryland.gov)  
410-767-0444 (office)  
410-333-8723 (fax)  
[Click here](#) to complete a three question customer experience survey

On Wed, Sep 26, 2018 at 4:30 PM Donna Gunning <[donna.gunning@maryland.gov](mailto:donna.gunning@maryland.gov)> wrote:  
Valerie -

Did they just notify you of this decision?



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](mailto:donna.gunning@maryland.gov)  
[Click here](#) to complete a three question customer experience survey.

On Wed, Sep 26, 2018 at 4:10 PM, Valerie Carpenter -MSDE- <[valeriej.carpenter@maryland.gov](mailto:valeriej.carpenter@maryland.gov)> wrote:  
Donna,

The Lighthouse Christian Academy - Cumberland withdrew from the BOOST program after receiving a December 2017 payment.

The following was included in Monica's notes:

**Lighthouse Christian Academy-Cumberland;**

Need to collect back 2017-18 funds from Lighthouse Christian Academy-Cumberland; they withdrew but received a \$3400 check in December 2017

Valerie



Valerie Jennings Carpenter, MPA  
Nonpublic Schools BOOST Program  
Program Manager  
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----- Forwarded message -----

From: Valerie Carpenter -MSDE- <[valeriej.carpenter@maryland.gov](mailto:valeriej.carpenter@maryland.gov)>

Date: Thu, Sep 13, 2018 at 4:04 PM

Subject: Background 2 Schools - Handbooks Ineligible Non-Compliant Schools

To: Donna Gunning -MSDE- <[donna.gunning@maryland.gov](mailto:donna.gunning@maryland.gov)>

**Exhibit**  
61



Donna,

Attached please find an one page summary (pdf) and two Excel spreadsheets providing background on the BOOST review of handbooks and compliance with non-discrimination requirements. A brief background for the two schools I mentioned as being on Monica's To Do List are as follows:

**Bethel Christian Academy-Savage & Woodstream Christian Academy-Mitchellville**

*December 2017* - This school's handbook is flagged by MSDE staff and sent to legal counsel during the December to January review of handbooks.

*April 2018* - Legal staff review the statements from schools in response to the request to reconcile the handbook with the non-discrimination requirement. Legal counsel said that questions remain for Bethel, Broadfording, and Woodstream.

*May 2018* - At its May 3, 2018 meeting, the BOOST Board determines that it wants additional information from Bethel Christian and Woodstream

*June 2018* - At its June 21, 2018 meeting, the BOOST Board received new legal advice and determined that Bethel Christian and Woodstream are ineligible.

*September 2018* - MK to do list:

Need to collect back 2017-18 funds distributed to **Bethel Christian Academy - Savage** in December 2017

Determine whether clawbacks are needed for **Bethel Christian Academy-Savage** and **Woodstream Christian Academy-Mitchellville** for 2016-17 funds

**Lighthouse Christian Academy-Cumberland;**

Need to collect back 2017-18 funds from Lighthouse Christian Academy-Cumberland; they withdrew but received a \$3400 check in December 2017

Please not: Monica confirmed CELEBRATION CHRISTIAN ACADEMY - COLUMBIA and ARNOLD CHRISTIAN ACADEMY-ARNOLD were still "ineligible status" but the schools were not included in the clawback process. I will review the Board minutes for clarity.

Please let me know if you would like me to forward to you letters the BOOST Board sent to Bethel Christian and Woodstream schools.

Valerie

----- Forwarded message -----

From: **Monica Kearns -MSDE-** <[monica.kearns@maryland.gov](mailto:monica.kearns@maryland.gov)>

Date: Fri, Sep 7, 2018 at 11:53 AM

Subject: Re: Summary Handbooks Ineligible Non-Compliant Schools

To: Valerie Carpenter -MSDE- <[valeriej.carpenter@maryland.gov](mailto:valeriej.carpenter@maryland.gov)>

Valerie,

These two schools are still Ineligible:

CELEBRATION CHRISTIAN ACADEMY - COLUMBIA

ARNOLD CHRISTIAN ACADEMY - ARNOLD

The list of next steps that I have given Donna includes these items:

Need to collect back 2017-18 funds distributed to Bethel Christian Academy-Savage in December 2017; the school has

Need to collect back 2017-18 funds from Lighthouse Christian Academy-Cumberland; they withdrew but received a \$34

Determine whether clawbacks are needed for Bethel Christian Academy-Savage and Woodstream Christian Academy-

Keep in mind that the BOOST Board may decide to clawback from Trinity Lutheran for 2016-17 after all; it was my decision to not claw back unless the Board directed us to.

Thanks,  
Monica

On Fri, Sep 7, 2018 at 9:14 AM, Valerie Carpenter -MSDE- <[valeriej.carpenter@maryland.gov](mailto:valeriej.carpenter@maryland.gov)> wrote:  
Monica,

The highlighted document on the Google Drive "BOOST handbook summary Ineligible non-compliant as of Aug 8 2018" is a good summary that needs to be updated. The summary doesn't include the outcomes of the following two schools:

CELEBRATION CHRISTIAN ACADEMY - COLUMBIA

ARNOLD CHRISTIAN ACADEMY - ARNOLD

Unfortunately I do not recall the outcomes.

The summary doesn't mention on July 3rd clawback letters with invoices were mailed to some of the schools and Trinity being placed on hold and later decision to void. After the clawback letters were mailed the OAG/Board determined the following two schools were ineligible/non-complaint. I believe you sent letters to the schools and/or verbally informed the schools of their non-complaint status but I don't recall sending invoices.

BETHEL CHRISTIAN ACADEMY - SAVAGE  
WOODSTREAM CHRISTIAN ACADEMY - MITCHELLVILLE

Shared with... > Nonpublic ... > BOOST 201... > Schools - Non-discrimination requirement, letters 2...

| Name  | Owner               | Last modified                  | Size   |
|---|---------------------|--------------------------------|--------|
| BOOST handbook summary ineligible non-compliant as of Aug 8 2018.xlsx | Monica Keams -MSDE- | Aug 10, 2018 Monica Keams -... | 20 KB  |
| Bethel Christian Academy BOOST letter 8-8-18.pdf                      | Monica Keams -MSDE- | Aug 8, 2018 Monica Keams -M... | 161 KB |
| Woodstream Christian Academy BOOST letter 8-8-18.pdf                  | Monica Keams -MSDE- | Aug 8, 2018 Monica Keams -M... | 161 KB |
| Arnold Christian Academy BOOST letter 8-8-18.pdf                      | Monica Keams -MSDE- | Aug 8, 2018 Monica Keams -M... | 164 KB |
| Litigation Hold Letter_BOOST.pdf                                      | Monica Keams -MSDE- | Jul 17, 2018 Monica Keams -... | 247 KB |

I know you have a great deal to wind up, if possible would you update or provide me with the updates?

Thanks,

Valerie



Valerie Jennings Carpenter, MPA  
Nonpublic Schools BOOST Program  
Program Manager  
Maryland State Department of Education  
Office of Policy and Fiscal Analysis  
[200 West Baltimore Street](https://www.maryland.gov/200-West-Baltimore-Street)  
[Baltimore, Maryland 21201](https://www.maryland.gov/valeriej.carpenter@maryland.gov)  
[valeriej.carpenter@maryland.gov](mailto:valeriej.carpenter@maryland.gov)  
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410-333-8723 (fax)

[Click here](#) to complete a three question customer experience survey

# **EXHIBIT 37**

**From:** Monica Kearns -MSDE- <monica.kearns@maryland.gov>

**To:** Felicia Holloway Wise -MSDE- <feliciaholloway.wise@maryland.gov>, Kenyatta DeCosta -MSDE- <kenyatta.decosta@maryland.gov>

**Subject:** Re: BOOST mtg. May 3 - handouts

**Date:** Wed, 2 May 2018 09:27:00 -0700

---

You probably already figured this, but please do not forward the legal memo from Liz and Alan to anyone. They want it kept confidential at this point.

Felicia, please make copies of the legal memo only for Board Members and MSDE staff for the meeting.

Thanks.

Sent from my iPad

On May 1, 2018, at 6:40 PM, "Dunklow, Alan" <[adunklow@oag.state.md.us](mailto:adunklow@oag.state.md.us)> wrote:

Monica and BOOST Board Members,

Our sincere apologies for the late arrival (Liz and I have been trading drafts back and forth on this interesting and difficult legal issue), but please find attached a confidential advice memo on the so-called Category 3 handbooks and subsequent responses from the schools.

Thanks,  
Alan

**Alan J. Dunklow**  
Assistant Attorney General  
Office of the Attorney General  
Maryland State Department of Education  
200 St. Paul Place, 19<sup>th</sup> Floor  
Baltimore, Maryland 21202  
410-576-6460 (Phone)  
410-576-6309 (Fax)  
[adunklow@oag.state.md.us](mailto:adunklow@oag.state.md.us)

**Exhibit**  
**83**

**From:** Monica Kearns -MSDE- <[monica.kearns@maryland.gov](mailto:monica.kearns@maryland.gov)>

**Sent:** Tuesday, May 1, 2018 4:42 PM

**To:** Beth Harbinson <[csfbaltimoreed@hotmail.com](mailto:csfbaltimoreed@hotmail.com)>; Elizabeth A. Green <[egreen@pklaw.com](mailto:egreen@pklaw.com)>; Linda Eberhart <[Linda.eberhart45@gmail.com](mailto:Linda.eberhart45@gmail.com)>; Matthew Gallagher <[matt@goldsekerfoundation.org](mailto:matt@goldsekerfoundation.org)>; Nancy Grasmick <[ngrasmick@mac.com](mailto:ngrasmick@mac.com)>; Skipp Sanders <[usualis@aol.com](mailto:usualis@aol.com)>; Camp Marva Jo <[mjcamp@comcast.net](mailto:mjcamp@comcast.net)>

**Cc:** Kameen, Elizabeth <[ekameen@oag.state.md.us](mailto:ekameen@oag.state.md.us)>; Dunklow, Alan <[adunklow@oag.state.md.us](mailto:adunklow@oag.state.md.us)>; Debra Lichter -MSDE- <[debra.lichter@maryland.gov](mailto:debra.lichter@maryland.gov)>; Kenyatta DeCosta -MSDE- <[kenyatta.decosta@maryland.gov](mailto:kenyatta.decosta@maryland.gov)>; James Klarman -MSDE- <[james.klarman@maryland.gov](mailto:james.klarman@maryland.gov)>; Felicia Holloway Wise -MSDE- <[feliciaholloway.wise@maryland.gov](mailto:feliciaholloway.wise@maryland.gov)>; Kristy Michel -MSDE- <[kristy.michel@maryland.gov](mailto:kristy.michel@maryland.gov)>; Chandra Haislet -MSDE- <[chandra.haislet1@maryland.gov](mailto:chandra.haislet1@maryland.gov)>; Terri A. Debord <[terri@goldsekerfoundation.org](mailto:terri@goldsekerfoundation.org)>; Tracy Dusablon -MSDE- <[tracy.dusablon@maryland.gov](mailto:tracy.dusablon@maryland.gov)>; William Reinhard -MSDE- <[william.reinhard@maryland.gov](mailto:william.reinhard@maryland.gov)>; Christy Shockley -MSDE- <[christy.shockley1@maryland.gov](mailto:christy.shockley1@maryland.gov)>; Michels, Barbara <[bmichels@towson.edu](mailto:bmichels@towson.edu)>

**Subject:** BOOST mtg. May 3 - handouts

Good afternoon BOOST Board Members,

The next meeting is Thursday, May 3, from 9 am - 11 am in conference room #2 on the 8th floor of MSDE.

Attached are documents for the meeting:

- 1) Meeting agenda - revised. This has been revised to exclude consideration of the Feb. 21 meeting minutes. Those minutes are not ready for review.
- 2) Handbooks - lists: A document is attached that lists schools that are ineligible due to discriminatory language in handbooks, and schools that are in "Handbook Category 3." Three of the Category 3 handbooks are still under review.
- 3) Handbooks - still under review: A document is attached with excerpts from the Category 3 handbooks still under review and the school responses for these three handbooks.
- 4) Potential clawbacks related to handbooks: The total potential clawback amount from 2016-2017 (Year 1) is \$138,850 and would affect six schools.
- 5) Applications for 2018-2019: As of Monday, April 30, there are 1,132 income eligible applicants. Of these, 509 are renewals and 77 are students with disabilities, according to parent reporting.

Also attached:

- 6) Senate Bill 185 pages 144-151, which governs the BOOST program for the 2018-2019 school year. This was sent via email last week but I am attaching it again.

Thank you,  
Monica

--  
<image002.png>

Monica Kearns  
Assistant Superintendent, Division of Business  
Services  
Maryland State Department of Education  
200 West Baltimore Street  
Baltimore, Maryland 21201  
[monica.kearns@maryland.gov](mailto:monica.kearns@maryland.gov)  
410-767-8863 (office)

[Click here](#) to complete a three question customer experience survey.

<Enforcing Nondiscrimination Memo 05-01-18 Supplement.pdf>

# **EXHIBIT 38**

Transcript of BOOST Advisory Board

Matt Gallagher, presiding

Transcript Prepared Exclusively for  
Alliance Defending Freedom by  
Malloy Transcription Service

[Transcript prepared from a provided audio recording.]

**Exhibit**  
**38**

1 P R O C E E D I N G S

2 MR. GALLAGHER: Do any of the Board Members need  
3 more time, or are we ready to proceed, whether you're in  
4 present--whether you're present or on the phone?

5 MS. SANDBOWER HARBINSON: [via telephone] I'm ready.

6 MS. CAMP: [via telephone] I'm ready.

7 MR. GALLAGHER: Skipp?

8 DR. SANDERS: [via telephone] Yes. Yes, Matt.

9 MR. GALLAGHER: Are you ready?

10 DR. SANDERS: [via telephone] Yeah.

11 MR. GALLAGHER: Okay. Linda, Elizabeth, you--

12 MS. GREEN: Okay.

13 MR. GALLAGHER: Okay.

14 So we have our agenda, which I think has been  
15 distributed to everybody in the room, and we have a request  
16 from--which school is it?

17 MS. KEARNS: Bethel Christian Academy.

18 MR. GALLAGHER: --Bethel Christian Academy to  
19 address the Board. And I think that that's probably something  
20 we should allow before the Board would act.

21 So I think the choice is do we delay, No. 1--they  
22 are issue No. 1, right? They're not No. 2?

23 MS. KEARNS: No. 1 and B.

24 MR. GALLAGHER: No. 1 and B, yeah.

25 Do we delay the discussion on No. 1 and kind of



1 backload that in the meeting, or do you want to have the  
2 discussion for No. 1, delay action, afford, you know, them  
3 time to arrive to address the Board? Is there any preference  
4 among the Board Members?

5 MS. KEARNS: I would probably prefer to skip to the  
6 next item number.

7 MR. GALLAGHER: So that we can have the benefit of  
8 their input before we deliberate? Okay, all right.

9 So just let the minutes reflect that we will kind of  
10 jump the agenda a little bit, and we'll start with No. 2,  
11 which is you have a one-page document, I think--or one page  
12 that has the value of potential clawbacks from 2016 and 2017.

13 I believe at one of our last sessions, we had asked  
14 MSDE to compile the data and information by school. If I get  
15 any of this wrong, correct me, but these are the schools that  
16 based on the feedback and information we are provided for  
17 2016-2017 were not in compliance with the BOOST law that  
18 existed at the time, and we ultimately did--they had been paid  
19 the scholarships, right?

20 MS. KEARNS: [Nodding head up and down.]

21 MR. GALLAGHER: We didn't find out about the  
22 noncompliance until after the fact.

23 MS. KEARNS: [Nodding head up and down.]

24 MR. GALLAGHER: We notified the families about the  
25 noncompliance that the schools had a responsibility to

1 maintain admission, right?

2 MS. KEARNS: Yes.

3 MR. GALLAGHER: Okay. And the issue now is whether  
4 or not we will attempt to clawback this money, which we're  
5 entitled to.

6 MS. KEARNS: Yes.

7 MR. GALLAGHER: Okay. And Liz, from the Attorney  
8 General's office perspective in MSDE, in short, this is a  
9 discretionary decision of the Board.

10 MS. KAMEEN: It is a discretionary decision of the  
11 Board.

12 MR. GALLAGHER: All right.

13 And we have 57 students who attended these schools,  
14 and the approximate value of the scholarships--well, the exact  
15 value of the scholarships is \$138,150, correct?

16 MS. KEARNS: Yes.

17 MR. GALLAGHER: Okay. Open it up to the Board for  
18 questions or comments at this point.

19 MS. EBERHART: Could you repeat what the language of  
20 the--the bill language says that--

21 MS. KAMEEN: Well, there's no language in the bill  
22 that actually talks about clawbacks, but certainly, you have  
23 these schools have been paid. They've been found not to be in  
24 compliance with the law, and so the question is--and they've  
25 had students. They took students in the face of

1 noncompliance.

2           So my advice to this Board has been you have the  
3 authority to enforce your law. You can do it by a clawback,  
4 but you don't have to do it by a clawback. You don't--you  
5 always have the discretion to exercise your authority. So you  
6 can say no, we're going to--they educated the students and  
7 we're going to let them keep the money, or we're going to take  
8 the money back.

9           MR. GALLAGHER: Are these schools still  
10 participating in the BOOST program or the Textbook Program at  
11 this point?

12           MS. KAMEEN: Monica, I would assume no.

13           MS. KEARNS: No, they are not.

14           MR. GALLAGHER: Okay. So in terms of like our next,  
15 it is really only for the 2016-2017 school year, right?

16           MS. KEARNS: That's--

17           MR. GALLAGHER: We're not--they're not engaged with  
18 the State with them, correct?

19           MS. KEARNS: Well, because of the timing of--the  
20 timing difference between the Textbook Program and BOOST, I  
21 know, for one, Trinity Lutheran is participating in the  
22 2017-2018 Textbook Program because they revised their handbook  
23 and resubmitted it to MSDE, and we found that it was  
24 acceptable.

25           MR. GALLAGHER: Okay.

1 MS. KEARNS: So there could be a couple of others--

2 MR. GALLAGHER: But they're the only school. Like  
3 the others have not changed their handbooks or taken action?

4 MS. KEARNS: Jamie and I talked about that. Is  
5 that--that's correct.

6 MR. GALLAGHER: Okay.

7 MS. KEARNS: So--

8 MR. GALLAGHER: So Trinity Lutheran is now in  
9 compliance?

10 MS. KEARNS: They are in compliance in terms of  
11 handbook.

12 MR. GALLAGHER: Right.

13 MS. KEARNS: And all of that happened before the  
14 application window closed for textbook for current year  
15 because that application goes--window actually goes into  
16 January, usually.

17 MR. GALLAGHER: Okay.

18 MS. KEARNS: So--

19 MR. GALLAGHER: Liz, absent the Board acting on this  
20 particular issue, as a matter of course, would MSDE forward  
21 this to the Central Collection Unit of the State, or would  
22 they view this as a policy decision?

23 MS. KAMEEN: I believed it would be a decision of  
24 this Board, whether--whether to attempt to collect this money.

25 MR. GALLAGHER: Okay. Any questions or observations

1 from the Board Members?

2 MS. SANDBOWER HARBINSON: [via telephone] I have  
3 just one question. This is Beth.

4 MR. GALLAGHER: Sure.

5 MS. SANDBOWER HARBINSON: [via telephone] The  
6 schools, excluding Trinity Lutheran, which I think we may have  
7 to discuss separately, all signed the statement saying that  
8 they were in compliance; is that correct?

9 MS. KEARNS: Yes. And Trinity Lutheran signed that  
10 same assurance statement.

11 MS. CAMP: [via telephone] Hi. This is Marva, and  
12 I'm still trying to get my hands around the rules. So can you  
13 tell me the implications if we were to take the money back?  
14 How does that impact the students? They lose their  
15 scholarship, or the school would just be paying the portion  
16 that was the scholarship?

17 MS. KEARNS: It's the school. The school cannot  
18 charge the family to compensate for the funds that they would  
19 lose for becoming ineligible. So the last specifies that.

20 MS. CAMP: [via telephone] Okay.

21 MR. GALLAGHER: The students--just to add to that,  
22 Marva Jo, the students, the scholarship is portable to any  
23 eligible school, and in the case where appropriately awarded  
24 scholarship to an eligible family, they went to a school that  
25 had signed and provided the assurance which we later found not

1 to be accurate, it's the school that's liable. It's not the  
2 family, and the student maintains their scholarship  
3 eligibility.

4 So the decision as it relates to these schools would  
5 be to basically send them a bill for the 2016-2017 school year  
6 to recoup the money, you know, that was paid for those  
7 scholarships that they were not entitled to as a school  
8 because they really weren't eligible, given their policies at  
9 the time.

10 Is that--

11 MS. KEARNS: Correct.

12 MR. GALLAGHER: Okay.

13 MS. CAMP: [via telephone] Okay.

14 MR. GALLAGHER: If we were to initiate repayment,  
15 then MSDE sends it to Central Collections, who then works with  
16 the individual schools.

17 MS. KAMEEN: Right. And we would--we would send a  
18 letter to the school saying this is the amount of money that  
19 you're required to reimburse MSDE and the State. I mean, the  
20 money would go back to the State.

21 MR. GALLAGHER: Right.

22 MS. KAMEEN: And if they don't send the money, then  
23 there's a referral to Central Collections at some point, and  
24 then that process takes over.

25 MR. GALLAGHER: But there's also--I mean, I don't

1 have direct experience with this case, obviously, because this  
2 is the first time this has ever happened, but if it is  
3 referred for collection, there is an opportunity to go into  
4 agreement in terms of the payment.

5 MS. KAMEEN: Right. Sure. Right.

6 MR. GALLAGHER: So depending on the circumstances  
7 and the size, like the school would potentially have the  
8 ability to spread it out over 2 or 3 years.

9 MS. KAMEEN: That--those kinds of negotiations  
10 happen with the Department of Budget and Management and the  
11 collections unit.

12 MR. GALLAGHER: That's not--

13 MS. KAMEEN: So we can't--I can't guarantee that  
14 there's, you know--

15 MR. GALLAGHER: There is that possibility.

16 MS. KAMEEN: Absolutely.

17 MR. GALLAGHER: We just want people to be aware of  
18 that.

19 MS. KAMEEN: Sure.

20 MR. GALLAGHER: Okay.

21 MS. SANDBOWER HARBINSON: [via telephone] I  
22 personally don't think it matters, and I'm not saying that the  
23 money is irrelevant, but I don't think from a standpoint of  
24 making a decision about this that it matters or whether we get  
25 paid or not. I think what matters is that we're clear as a

1 group about the decision and the basis for the decision, and  
2 hopefully, we nip this issue in the bud in general. But I do  
3 think that's important to be specific with our decision.

4 And in looking this over and reading this after  
5 and thinking this over, my feeling is that we should go ahead  
6 and request the clawback, except for the school, which is the  
7 last one who has come into compliance with the law.

8 MR. GALLAGHER: Well, I think that's a little bit  
9 complicated, just in that we didn't afford the other schools  
10 an opportunity to kind of come into compliance, and in this  
11 case, all of these schools had signed and executed assurances,  
12 which were contrary to their policies and which ran afoul of  
13 the law, so--

14 MS. SANDBOWER HARBINSON: [via telephone] So you're  
15 just saying that Trinity proactively came into compliance?

16 MR. GALLAGHER: Trinity came into compliance for  
17 '17-'18.

18 MS. KEARNS: After the fact for BOOST--

19 MR. GALLAGHER: Yeah.

20 MS. KEARNS: --but not after the fact for Textbook,  
21 and since Textbook is the gateway program for BOOST and a  
22 couple of other programs, they're participating in 2017-2018  
23 for Textbook, which technically makes them eligible for  
24 2018-19 for BOOST and the Board's letter to Trinity Lutheran  
25 and said, "We would consider allowing you to participate again



1 in BOOST in 2018-2019. So that's kind of an open door,  
2 unsettled on the BOOST count, but for Textbook, they did have  
3 time to come into compliance for the current year.

4 MS. SANDBOWER HARBINSON: [via telephone] But,  
5 Monica, doesn't that mean all the other schools also had,  
6 quote/unquote, "time to come into compliance" for the next  
7 school year and chose not to?

8 MS. KEARNS: For Textbook purposes.

9 MS. SANDBOWER HARBINSON: [via telephone] Right.

10 MS. KEARNS: Yes.

11 MS. SANDBOWER HARBINSON: [via telephone] Right.

12 MS. KEARNS: Correct.

13 MS. GREEN: Well, did all of them or not all--some  
14 of them were notified later on in the process, weren't they?

15 MS. KEARNS: We notified them as soon as we--

16 MS. GREEN: The ones that were in the question--the  
17 ones that were in the questionable--I'm not--

18 MS. KEARNS: Yeah.

19 MS. GREEN: If we weren't sure that they weren't in  
20 compliance, they might not have received notification in time  
21 to fix it for Textbook, or did all of them receive--

22 MS. KEARNS: They received--we--we reached out to  
23 them--

24 MS. GREEN: Okay.

25 MS. KEARNS: --and they knew that if they--they

1 wanted to change their handbook, we would work with them.

2 MS. GREEN: Okay.

3 MS. KEARNS: Okay. So--

4 MR. GALLAGHER: In the case of these six schools--

5 MS. KEARNS: Mm-hmm.

6 MR. GALLAGHER: --the first five no longer

7 participate in the program, correct?

8 MS. KEARNS: And Trinity currently does not either?

9 MR. GALLAGHER: Trinity does not either.

10 MS. KEARNS: For BOOST.

11 MR. GALLAGHER: For BOOST. But they have come into  
12 compliance for Textbook purposes?

13 MS. KEARNS: For Textbook purposes, the current  
14 year, but none of these schools are in BOOST for 2017-2018.

15 MR. GALLAGHER: Okay. So just on the issue of  
16 sanctions or, you know, a penalty, in the first year of the  
17 program, these six schools had students that had been awarded  
18 scholarships at these values. The students enrolled. They  
19 attended. The clawback option is there, but in terms of like  
20 the initial action, they've been excluded from the program  
21 going forward or at least this year or the second year.

22 MS. KEARNS: This year.

23 MR. GALLAGHER: So there has been a consequence--

24 MS. KEARNS: Mm-hmm.

25 MR. GALLAGHER: --to the intervention.

1 MS. KEARNS: Yes.

2 MR. GALLAGHER: So I would call that kind of like  
3 the first most immediate sanction, and then the question  
4 becomes do we want to pursue the repayment.

5 MS. GREEN: So, Matt, if I'm hearing what you're  
6 saying, theoretically, we don't have the numbers right in  
7 front of us. Trinity Lutheran may have had that same \$62,000  
8 worth of scholarship--previously eligible students enrolled in  
9 their school for 2017-18 and lost the funding. So they've had  
10 to keep those students and not receive the money.

11 So what we're talking about is effectively a double  
12 penalty because of--

13 MR. GALLAGHER: Well, I mean, I don't think that we  
14 verified the 2017-2018 that they kept the students. I mean,  
15 when we--when we sanctioned them in 2016-2017 and said they  
16 were not in compliance with the law, they can't kick the kids  
17 out at that point.

18 MS. GREEN: We sanctioned them in--

19 MS. KEARNS: 2017-2018.

20 MS. GREEN: '17-'18.

21 MR. GALLAGHER: So 2017-2018, you've ensured that  
22 all of those students are still enrolled?

23 MS. KEARNS: No, we have not ensured that. We don't  
24 know that.

25 MS. GREEN: But that's the year that they--if--

1 right now, they got this money. Then there was another year  
2 where they had already accepted all the kids.

3 MR. GALLAGHER: But 2017-2018, they have not  
4 received this money, right?

5 MS. KEARNS: Well, actually, if you look, I'm just  
6 going to--there's another handout called BOOST Schools with  
7 Handbooks that Do Not Comply with the BOOST Non-discrimination  
8 Requirements. It says that at the top, and there's a line  
9 through the middle of the page.

10 MR. GALLAGHER: That's this one?

11 MS. KEARNS: So that above the line--yes. Above the  
12 line is the list of schools that are ineligible in 2017-2018  
13 and did not get paid. So those are the funds that they  
14 forfeited, and you'll see on there, Trinity Lutheran is  
15 just--it's just sequentially numbered, so Trinity Lutheran is  
16 nine, and they did not get paid \$73,900 this year. So they  
17 already were compelled to keep the students if the students  
18 wanted to stay, those 19, and they are not paid, \$73,900 So  
19 that's what happened for 2017 and 2018.

20 MR. GALLAGHER: I got it.

21 MS. GREEN: And looking at the first one, they went  
22 from year one to year two, from one to four students. So the  
23 impact in year two is \$8,600 of--

24 MR. GALLAGHER: Which school are you talking about?

25 MS. KEARNS: Are you looking at Appleton?

1 MS. GREEN: Appleton, yeah.

2 So, in year one of the program, they had one student  
3 forcing to withdraw their award. In year two, the year that  
4 they were already--not received the funds but kept the kids,  
5 it's 8,600. So the impact on that school would actually be a  
6 \$10,000 impact, effectively, right?

7 MR. GALLAGHER: Okay. I think we're--we're getting  
8 a little apples and oranges. So this one--these are the  
9 2016-2017. These are the scholarships paid.

10 MS. KEARNS: [Nodding head up and down.]

11 MR. GALLAGHER: This is what we found out after the  
12 fact were noncompliant.

13 MS. KEARNS: Yes.

14 MR. GALLAGHER: So this is the clawback opportunity,  
15 right?

16 MS. KEARNS: Mm-hmm. Yes.

17 MR. GALLAGHER: This one is noncompliant, have to  
18 keep the kids this year.

19 MS. KEARNS: Mm-hmm.

20 MR. GALLAGHER: They never got the money.

21 MS. KEARNS: Right.

22 MR. GALLAGHER: Okay. Just making sure.

23 MS. KEARNS: Yes.

24 MS. GREEN: Just to clarify where my--my brain is  
25 going, because clearly not everybody thinks the way I do,

1 which is understandable, I think they're already had a  
2 substantial financial impact by it being in year two that we  
3 sort of realized the issue.

4 MR. GALLAGHER: You mean caught up with the fact  
5 that they signed and assurance illegally?

6 MS. GREEN: Well, that we caught up with the issue  
7 of--I don't--I actually--Matt, I take a little issue with that  
8 because when you look at what the school said, they read the  
9 policy and they say--like the very first school that came up,  
10 they said, "We've never discriminated." We have  
11 interpreted--and I think we've properly interpreted--that to  
12 not be in compliance. But I don't think that they were  
13 intentionally trying to get around something. I think they  
14 didn't understand, and so I take a little issue with an out  
15 and out--again, we've done the right thing, I believe, but I  
16 just think that looking at it and looking at the impact--and I  
17 think--I think that it's a real discussion, but there has been  
18 a financial impact for these schools because in year two  
19 there's a substantial amount of money that they did not  
20 receive, and I--for whatever it's worth looked at--

21 MR. GALLAGHER: In year two, wasn't assurance  
22 language even more explicit and stringent?

23 MS. KEARNS: It was the--it was the same.

24 MR. GALLAGHER: Did it change a little? It was  
25 exactly the same, okay.

1 MS. KEARNS: I mean, it mirrors the law, and it was  
2 the same, Liz--

3 MR. GALLAGHER: So after all the public attention?

4 MS. KEARNS: --because it was the Textbook that was  
5 in 2015-2016 where that was the first time the  
6 nondiscrimination language was ever seen for any of the  
7 programs. BOOST came into being the next year, 2016-2017. It  
8 was set. It was resettled and all, and it has stayed the same  
9 since then.

10 MS. KAMEEN: Correct.

11 MS. KEARNS: Yeah.

12 MR. GALLAGHER: Okay. I don't think we have to  
13 agree on that point, but--I mean, but we got to figure out the  
14 2016-2017 policy issue, and if all of these--let's see.

15 MS. KEARNS: So Arnold and Grace Academy did not  
16 receive funds in 2016-2017.

17 MR. GALLAGHER: Got it.

18 MS. KEARNS: And there must be one more missing.

19 ATTENDEE: [Inaudible.]

20 MS. KEARNS: Sorry? Celebration.

21 ATTENDEE: [Inaudible] in '16-'17.

22 MS. KEARNS: Celebration because there's six--

23 MR. GALLAGHER: But for the '16, the six in '16 and  
24 '17.

25 MS. KEARNS: Mm-hmm.

1 MR. GALLAGHER: Five of the six have students  
2 enrolled that they didn't get scholarship awards for this year  
3 because they were ineligible, and then Trinity--well, I guess  
4 it's--is it seven?

5 MS. KEARNS: It's six out of six.

6 MR. GALLAGHER: Six out of six. Okay.

7 MS. KEARNS: Six out of six have not received BOOST  
8 funds--

9 MR. GALLAGHER: Okay.

10 MS. KEARNS: --in 2017-2018.

11 MR. GALLAGHER: Okay. But they have BOOST students.

12 MS. KEARNS: As far as we know.

13 MR. GALLAGHER: Yeah.

14 MS. KEARNS: Yes. They have BOOST awardees. We  
15 have not recently confirmed whether those BOOST awardees have  
16 stayed there, but what happens is if a BOOST awardee leaves,  
17 then we're notified. It takes a little time, but then if the  
18 BOOST student goes to another BOOST-eligible school, another  
19 payment is issued to School No. 2 pro-rated for the number of  
20 school days the student will be there.

21 MS. GREEN: Just out of curiosity, how could you do  
22 that when the money--does MSDE still have that money that was  
23 not--

24 MS. KEARNS: Mm-hmm.

25 MS. GREEN: Okay.



1 MR. GALLAGHER: For '17-'18, right?

2 MS. GREEN: It wasn't part of the \$600,000?

3 MS. KEARNS: No. It was beyond that because the  
4 most recent check payment batch is about \$990,000, so we took  
5 the funds, that \$162,000, and re-awarded, went further down  
6 the list.

7 MS. GREEN: Okay. Mm-hmm.

8 MR. GALLAGHER: Are there any other questions or  
9 comments on the '16-'17 issue?

10 [No response.]

11 MR. GALLAGHER: Is there any interest on the Board  
12 to kind of know the status of the students for '17-'18, like  
13 that they are still enrolled at the school and that the school  
14 has maintained the enrollment? Is that a factor that would be  
15 impactful to anybody's decision?

16 DR. SANDERS: [via telephone] No.

17 MS. SANDBOWER HARBINSON: [via telephone] I  
18 understand where Elizabeth is coming from with this double  
19 penalty conversation, but I'm assuming that would be fairly  
20 difficult to pull that data. Am I correct, Monica?

21 MS. KEARNS: It would take a little time--

22 MS. SANDBOWER HARBINSON: [via telephone] Yeah.

23 MS. KEARNS: --to get that, yes. But we could--you  
24 know, we could work on it.

25 MS. EBERHART: What I would like to know, but I know

1 it's not available, is what's going to happen this coming  
2 year. So if they become, quote, "in compliance," because  
3 they've changed their handbook, then we just automatically say  
4 that they're in compliance? Because we've had this past  
5 history of 2 years of not being in compliance. So I know it's  
6 probably not a factor that should be considered, and we don't  
7 know it. But I've brought it up before of, you know, once  
8 they're not in compliance, how do we, quote, "put them back  
9 into compliance," just because they change their handbook or  
10 do something else?

11 MR. GALLAGHER: I mean, I think if they change their  
12 handbook and have compliant language, they can apply to be  
13 considered for the program, and if they meet the eligibility  
14 criteria--I mean, I will defer to Liz on this.

15 MS. KAMEEN: You're right.

16 MR. GALLAGHER: I don't think that there's any way  
17 that they could be excluded.

18 Now, I think you'd have kind of a heightened  
19 awareness of the history, and I think everybody's antenna  
20 would be up and to see if there were any complaints or if any  
21 students or families that wrote in and said they're not in  
22 compliance with the handbook or they've taken actions that are  
23 inconsistent with the policy, but, you know, in terms of like  
24 how far we can kind of take that out, I think it's not much  
25 farther than do they have a compliant handbook for the

1 eligible period of time.

2           You know, I--you know, in terms of like things like  
3 double penalties and compliance and sanctions, I think that as  
4 a Board, we've really tried to impress upon the member schools  
5 the importance of this issue. I think that we have tried to  
6 act in a very timely and consistent fashion, and I think that  
7 if you envision kind of the way this program unfolds in the  
8 future, I could see, you know, increased, you know, number of  
9 cases coming to us where the school has a compliant handbook  
10 and, you know, consistent policies with the law, and we're  
11 confronted with actions that might potentially conflict with  
12 that.

13           And I think it's going to become increasingly  
14 complicated to kind of sort that out, and it's going to be  
15 increasingly complicated to kind of sanction that type of  
16 behavior if and when we encounter it.

17           So I guess, you know, where I would come down on  
18 this is we have the ability to, you know, try to collect the  
19 money. I think we have clear cases of noncompliance. If we  
20 decide to try to collect, the matter gets referred to  
21 Department of Budget and Management in Central Collections.  
22 You know, they exercise discretion in those decisions like  
23 beyond what the Board could do in terms of repayment  
24 arrangements, whether or not they have the ability to pay.

25           So I guess my recommendation would be that we should

1 clawback the money, that we should send a consistent message,  
2 and that we should instruct DBM that this is our  
3 recommendation, you know, and that they should evaluate the  
4 collectability and be mindful of, you know, what this  
5 represents in terms of the school's budget and their ability  
6 to repay it within one year and to take that into  
7 consideration, you know, as to whether or not it should be a  
8 multi-year repayment.

9           The only other thing I'll add--and this is just from  
10 my experience in other things, you know, related to the State,  
11 that it's--this is different, but there are many entities that  
12 receive grant funds from the State, and oftentimes there  
13 become issues of noncompliance or dispute on the eligibility  
14 of expenses. And in some cases, those types of disputes can  
15 get resolved over multi-years because there exists an ongoing  
16 contractual relationship, and they still might be a service  
17 provider.

18           So if schools come into compliance, you know, if  
19 they change their practices, which, you know, I think you  
20 would hope that they would do, there might be like a  
21 multi-year window where that could be resolved.

22           I don't think that we have to insert ourselves into  
23 that discussion, but I think that the State would have the  
24 ability and the flexibility to navigate that better than we  
25 would as a Board.

1 I don't want to get into a payment schedule for  
2 Trinity Lutheran, you know, because it's a big number and  
3 it's--you know, is it over 2 or 3 or 4 years? I think we can  
4 kind of make a policy decision, if there's agreement on the  
5 Board, and then we can refer it back to MSDE and DBM to  
6 implement it in the fairest and most effective way.

7 MS. EBERHART: And if that's a motion, could we turn  
8 your statement into a motion? And I will second it, or I will  
9 do whatever.

10 MR. GALLAGHER: It can be a motion. I'm happy to  
11 make it one, but I also want to afford the other Board Members  
12 a chance to weight in because I think that was kind of the  
13 first "here's what I think we should do."

14 If there are additional, you know, points that  
15 people want to make, I'm open to that.

16 DR. SANDERS: [via telephone] I don't have any  
17 thoughts to make, but, Matt, what you just said really had an  
18 impact on me because I think I flipped and flopped two or  
19 three times in the course of the conversation. But I agree  
20 with you. I think we're already maybe beginning to look at a  
21 taste of what's going down the road with trying to ascertain  
22 compliance in the future might be, where, you know, given the  
23 handbook and maybe school practice.

24 I don't want to see us get mired in that. If it's  
25 referring to the statement that there is some type of

1 consideration being given and concentration and that we are  
2 simply laying down the policy, I can go with that. I didn't  
3 want the double jeopardy, but I can see exactly where you're  
4 coming from, and that made sense to me. I think we get  
5 totally mired juggling cases down the road. I don't want to  
6 do that.

7 MS. CAMP: [via telephone] This is Marva.

8 I was concerned about the students, and  
9 understanding that they won't be impacted with their  
10 scholarship. Unless there was something that I heard, which I  
11 haven't, that really mitigates they are not following the  
12 policy, I think that we need to not have a slippery slope, and  
13 I think what you said, Matt, makes perfect sense in terms of  
14 going forward.

15 MS. GREEN: And I'll just share. I mean, I am  
16 concerned for the schools themselves and their budgets and  
17 whether they're going to be able to handle it, but I do think  
18 that we have a burden when we're dealing with public funds.

19 And so as much as--it's with a little bit of a heavy  
20 heart in terms of the impact that I think it may have on these  
21 schools. I think that the right thing is for us to refer to  
22 be collected.

23 MR. GALLAGHER: Okay. Anybody else on the phone?

24 MS. SANDBOWER HARBINSON: [via telephone] I concur  
25 with Skipp's perception. Yes.

1 MR. GALLAGHER: Okay. So based on what we'll now  
2 call a motion, would that be 5-oh?

3 MS. GREEN: Yeah.

4 MR. GALLAGHER: Okay.

5 And do you feel like you encapsulated that enough,  
6 like what I said?

7 MS. KEARNS: Yes.

8 MR. GALLAGHER: So I would just make sure that  
9 the--I would say that whether between MSDE and the AG's  
10 office, it would be great if we could kind of roll that into a  
11 one-page letter or memo to the school superintendent and DBM  
12 just--

13 MS. KAMEEN: What I would suggest first is to send a  
14 letter to the schools saying here's what you need to reimburse  
15 us, and then within some particular time period, you know, 30  
16 days, 40 days, whatever, and then if they don't, then take the  
17 next step because they can voluntarily pay.

18 MS. EBERHART: And it's not a 5-oh. It's 6-oh.

19 MS. KEARNS: Right.

20 MR. GALLAGHER: I'm sorry. I'm sorry. Miscounted.  
21 Okay.

22 Okay. So I think whether it's a letter to the  
23 school or it's a letter to MSDE and DBM--

24 MS. KAMEEN: Right.

25 MR. GALLAGHER: --do you think that the Board should

1 see the substance of that to make sure that it's a fair kind  
2 of encapsulation of what we--

3 MS. KAMEEN: Mm-hmm.

4 MR. GALLAGHER: --we just agreed to in terms of the  
5 motion?

6 MS. KEARNS: Sure. Okay.

7 MR. GALLAGHER: Great. All right.

8 So we're going to move on to No. 3, update on  
9 program status for '17-'18.

10 MS. KEARNS: Okay. Is Principal Dant--Miss, are  
11 you Principal Dant? No.

12 Okay. I didn't know if someone from Bethel  
13 Christian Academy had joined us yet. Okay. Sorry.

14 MR. GALLAGHER: So let's do--let's do '17-'18  
15 update, and then if they're not here by like ten--

16 MS. KEARNS: Okay.

17 MR. GALLAGHER: --I think we should go back to No. 1  
18 because that's going to dominate the discussion.

19 MS. KEARNS: Right. Sounds good. Okay.

20 Update on program status for 2017-2018. I just  
21 wanted to let you know that the main activity now is getting  
22 another payment batch out, and it is for about 996,447  
23 payments, and we successfully got the data and the invoices  
24 down to Annapolis. So it shouldn't be too much longer before  
25 those go out, and we are really emphasizing to schools that we



1 need them to meet the deadlines that are set in the fall  
2 because the schools that met the deadlines that were set in  
3 the fall were part of the 4.5 million batch that was sent in  
4 December, and it's been difficult to get another payment batch  
5 out since then because December is when we focus on getting  
6 the payment batch out. And then after that, other things  
7 start competing for priority, and so it has taken a while, but  
8 it is almost done and almost out to the schools. So that is  
9 the main piece of information about current year.

10 MS. EBERHART: Now, could you just go back and  
11 repeat that in the past, if they didn't turn everything in by  
12 December, we gave them a bigger window, which is what caused  
13 all this problem to now? I mean, are we saying that in the  
14 future, we--I mean, it didn't sound like you are making this  
15 line in the sand that we must have this based on what the--I  
16 mean what the bill language, the budget language is. So are  
17 we going to try--I mean, just give them the same number of  
18 opportunities this year? I mean, that was so frustrating for  
19 us last fall to do it, or are we going to say--when you say  
20 October 1st, we mean October first, not something else.

21 MS. KEARNS: I hear you.

22 So what we are going to do differently in 2018-2019,  
23 so moving forward for year three, is we will set a deadline,  
24 and the schools that meet that deadline, hard and fast, will  
25 be in the payment batch, if they made all the requirements for

1 December. And if they are after the deadline even by one day,  
2 they will have to wait for the next payment batch, and there's  
3 no guarantee when that will occur.

4           What happened this year was we--schools reached out  
5 to us and said, "We really need more time to confirm the  
6 enrollment of these students." Some schools had dozens of  
7 students, and they asked for more time. And we gave them more  
8 time, past our published, you know, communicated deadlines,  
9 and so if we did it for one, we tried to work with some others  
10 when they came forward. And that, speaking of slippery slope,  
11 was a slippery slope.

12           And then finally, at some point, in order to get  
13 payments out in December, we had to stop, but by trying to  
14 work with some schools and give them some extra time, it  
15 really created a problem. We're going to have to--because it  
16 created an expectation that "We'll work with you around that  
17 deadline."

18           So, next year, no. If you meet the deadline, you'll  
19 get paid in December, and if you don't meet the deadlines,  
20 you'll get paid sometime after that, and we don't--we can't  
21 guarantee when. So that--the law allows the schools to be  
22 declared completely ineligible if they don't meet the  
23 deadline. So the Board decided, "No, we don't want to do  
24 that," so--

25           MS. EBERHART: And then it's because--I'm

1 sorry--because this was just new and we're getting up and  
2 working now, we're into another year. So, at some point, I  
3 think we need to revisit when that slippery slope stops. I  
4 mean when we say, "This is enough. Now you know." It's real  
5 clear what the laws says, that you must have this by  
6 such-and-such a time.

7 MS. GREEN: Can we try to pay attention to the  
8 Jewish holidays? Because the deadline for the BOOST  
9 applications is a Jewish holiday, and because it's a Monday,  
10 it means that any observant Jewish family that's applying for  
11 BOOST this year has 3 fewer days than any other family in the  
12 State of Maryland to do the application.

13 So when it comes to an October 1 deadline, right in  
14 the middle of the Jewish holidays, can we just make sure that  
15 the final dates--you know, as we're looking at it and the  
16 notices that are going out take into account that there's a  
17 little bit of a different burden there, not that we extend it,  
18 but just that we pay attention to the fact that it's--we're  
19 not making it unequal as sort of has ended up happening with  
20 the BOOST application.

21 MS. KEARNS: Okay.

22 MS. GREEN: It's a 72-hour--

23 MS. KEARNS: It is a 6-week window, but I hear you.  
24 So I just need that information well in advance, so--

25 MS. GREEN: The MSDE should have a 5-year Jewish

1 calendar.

2 MS. KEARNS: Okay. I'll find it.

3 MS. GREEN: If you don't, that's a problem.

4 MS. KEARNS: I'll find it. I'm sure somebody else.

5 So I'll find it. I hear you.

6 MR. GALLAGHER: Why don't I--I mean, let me just  
7 make a suggestion. How about if MSDE provides the Board its  
8 proposed schedule in terms of the windows, the deadlines, you  
9 know, when we're going to stop the slippery slope, in  
10 whichever slippery slope it is, and we also have the issue of  
11 opening the window sooner, so that we can kind of get this  
12 schedule more in line with what the admissions and  
13 decision-making schedule is because I think we're really  
14 trying to move everything up, right?

15 MS. KEARNS: [Nodding head up and down.]

16 MR. GALLAGHER: So if you can provide us that draft  
17 schedule, everybody can look at it. You know, in terms of the  
18 Jewish holidays, that's not an issue that I would have thought  
19 to surface, so I think that's great feedback. And then we  
20 can just go from there.

21 MS. KEARNS: I--yes. I just do want to pipe up and  
22 say that if I had been able to launch the application this  
23 year before the budget bill passed, it would have been very,  
24 very difficult to make the awards this year because we did not  
25 know that there was going to be the preference given to

1 students with disabilities.

2 So if I had launched the application without knowing  
3 that, we could be getting thousands of applications, not  
4 asking the parent whether the student has disabilities. And I  
5 wouldn't be able to tell you how many people in the pool are  
6 students with disabilities, and we have to--you know, there's  
7 a set amount, everything that's going to follow on that. So  
8 there's just a risk, since we're dealing with annual budget  
9 bill language still, and the horse would be very, very far out  
10 of the barn and--

11 MR. GALLAGHER: Well, I agree--

12 MS. KEARNS: --we wouldn't have the data we needed  
13 for the--for the award.

14 MR. GALLAGHER: I think--I still think that--first  
15 of all, I don't think anybody at MSDE or associated with BOOST  
16 should be apologetic for being permissive because we've done  
17 everything we possibly can to maximize, you know, opportunity  
18 and participation and accommodation, so that's one.

19 And then, two, as it relates to kind of the  
20 dependence on the budget bill and the availability of funds  
21 and the tweaks and the provisions that could change, I think  
22 we all agree it makes more sense to be on a different schedule  
23 in terms of doing these awards. I think that we're an  
24 established program now, 2 years. I think that we have enough  
25 level of interaction with MSDE and the key legislators who are

1 involved and, you know, really pay attention to BOOST that we  
2 can educate them to the complexities that that would create.

3 But I do think that we have to kind of maintain a  
4 good healthy forward pressure about getting the schedule into  
5 a place where it makes a lot more sense, and I think we had  
6 prior conversations about there are many examples in the State  
7 where they start application processes, and it's contingent on  
8 funding.

9 MS. KEARNS: Mm-hmm.

10 MR. GALLAGHER: And it can be contingent on funding  
11 and potential budget language that would impact that funding.

12 So I would hope that we don't get curveball like  
13 where they would change the eligibility in such a dramatic way  
14 that it would kind of invalidate the applicant pool, but we  
15 should communicate that to the key stakeholders. But I do  
16 think that we should try to be as aggressive as possible in  
17 terms of the schedule going forward.

18 MS. KEARNS: Okay.

19 MS. SANDBOWER HARBINSON: [via telephone] Just to  
20 this point, when--since we have such a big constituency of  
21 students is--working at the Jewish day school, we always pull  
22 that calendar when we are establishing deadlines, so that we  
23 can be respectful of the fact that, you know, as Linda said,  
24 it's not like they're not choosing to come in or work on this  
25 during this time. It's against their laws.

1           So, Elizabeth, were you asking that an extension be  
2 made or--I'm not sure if there was a request or you were just  
3 noting that.

4           MS. GREEN: So my understanding is a request has  
5 been made and denied with regard to the extension of the BOOST  
6 applications. So, with that in mind, I'm just asking, since  
7 September 10th through October first are the Jewish holidays,  
8 that we be very cognizant of the fact that deadlines not fall  
9 on days when the impact would be so substantial on the Jewish  
10 day schools.

11           I mean, it already--it already is an issue with  
12 regard to the BOOST applications, and my understanding is  
13 there was a request made from someone, and it was denied.

14           MS. KEARNS: Yeah. I denied that because I'm trying  
15 to get the awards out in July, and if I make an exception for  
16 one set of schools, we have to be open to make an exception  
17 for others--

18           MS. GREEN: Not--

19           MR. GALLAGHER: Okay.

20           MS. KEARNS: --and I will be making awards in August  
21 again because, as it is, it's going to be moving heaven and  
22 earth to get them out in July, so it's just--I said no.

23           MR. GALLAGHER: I think prospectively, when we put a  
24 deadline, you know, we should be mindful of the holiday  
25 schedule.

1 MS. KEARNS: I hear you. I will do that. I will  
2 get the schedule, Elizabeth, and I will--

3 MR. GALLAGHER: Great.

4 MS. KEARNS: --work with that.

5 MS. EBERHART: And the reason I brought up the  
6 schedule is I want to help support you when you say here's the  
7 deadline, you know, in October or whatever, that we don't--and  
8 it was part of us, the Board. We didn't want to turn any  
9 students away in the middle of this, but I think we're now at  
10 a point when you say this is what you want, this is your  
11 deadline, then we should say this is our deadline, so you  
12 figure it out, come back, and let us know so everyone knows  
13 very clearly this is what it really means.

14 MR. GALLAGHER: Okay. Great. Any other questions  
15 on the 2017-2018 program status?

16 DR. SANDERS: [via telephone] No. I have none.

17 MR. GALLAGHER: Okay. So we still don't have  
18 anybody else here, right?

19 MS. KEARNS: Bethel Christian Academy, is anyone  
20 here from that school?

21 [No response.]

22 MS. KEARNS: Okay.

23 MR. GALLAGHER: All right. I do think we should go  
24 back to No. 1--

25 MS. KEARNS: Okay.



1 MR. GALLAGHER: --because it's probably going to  
2 take--

3 MS. KEARNS: Mm-hmm.

4 MR. GALLAGHER: --some time.

5 MS. KEARNS: Mm-hmm.

6 MR. GALLAGHER: So there were a series of schools  
7 that the Board and MSDE thought needed to be scrutinized more  
8 closely--

9 MS. KEARNS: Yes.

10 MR. GALLAGHER: --that kind of fell into a little  
11 bit of a gray area. Okay. And in MSDE's review, 9 of those  
12 12 schools were deemed to be ineligible, correct?

13 MS. KEARNS: Let me--

14 MR. GALLAGHER: Point A.

15 MS. KEARNS: Nine of the--well, no. Sorry. We  
16 already talked about 1A. That's just a review. So if we look  
17 at the handout with the line across the middle, with the  
18 ineligible schools above the line--

19 MR. GALLAGHER: Oh, I'm sorry. Okay.

20 MS. KEARNS: --and the--you know, what we're  
21 referring to as the Category 3 schools below the line, that's  
22 just a review. There's nothing being asked of the Board today  
23 for a decision on the ineligible schools. That's just for  
24 informational purposes for the discussion. So those are the  
25 nine ineligible schools above the line, and then below the

1 line are the 11 schedules where there was--there were concerns  
2 about the handbook, but no final determination was made as of  
3 the last Board meeting as to whether those schools were--

4 MR. GALLAGHER: No. But MSDE found that they were  
5 in compliance.

6 MS. KEARNS: Yes. We were--

7 MR. GALLAGHER: And that there were three that were  
8 still under review.

9 MS. KEARNS: Yes. So we have since been working  
10 with the Attorney General's office, Liz and Alan, and just the  
11 No. 2, No. 3, and 11 are still under review.

12 MR. GALLAGHER: Right. So the--just to refresh for  
13 some of the people who might not be at all the meetings, that  
14 decision was made that MSDE would evaluate the compliance  
15 issues. That if you're found in compliance, that's not  
16 something that's really coming to the Board unless a  
17 compliance decision is made and then there's some other  
18 independent complaint that comes before us. So they're kind  
19 of off to the side.

20 So then we have the three schools that are still  
21 under review, and at this point is MSDE and the Attorney  
22 General's office looking for action from the BOOST Board based  
23 on the information that they've been able to compile. Okay.

24 MS. KAMEEN: Yes. That's huge. Once you go through  
25 your discussion or your deliberation, right. I mean, it--yes.

1 We got it.

2 MR. GALLAGHER: Liz, do you have a suggestion in  
3 terms of how we should discuss those three cases? You know,  
4 should MSDE or the Attorney General's office kind of present  
5 the issue with each school? Should we kind of talk that  
6 through? I mean, how would you suggest we handle that?

7 MS. KAMEEN: Here's what I could suggest, is it's  
8 always good if we can come up with, you know, these are the  
9 rules that apply, and then you take the rule and you apply it  
10 to the facts.

11 So--and Alan can jump into help me out here, but we  
12 really did--we took a look, obviously, at the BOOST statute,  
13 which focuses its antidiscrimination clause or  
14 nondiscrimination clause on admissions and says that you  
15 cannot discriminate in your admission process, and so you say,  
16 "Okay. What does that mean?" Well, admission, when you take  
17 a look at the plain language of the statute and you look up  
18 the word, it means acceptance into the school.

19 And then there's a second part of the statute that  
20 says other than admissions, a school does not have to change  
21 its policies to be contrary to its religious beliefs. So you  
22 have a balance. You have the admissions process and then this  
23 assurance that the school does not have to change its policies  
24 to--or change its policies to reflect different religious--or  
25 pull away from its religious beliefs.

1           Now, you think that would be a pretty clear line,  
2 but we have talked here that admission means you get through  
3 the door, but if what happens is you are then expelled from  
4 the school because of your sexual orientation alone, then that  
5 makes the admission process a sham.

6           So we have these three schools, and each one of them  
7 had--did not address the sexual orientation, nondiscrimination  
8 issue in its handbook, but they raised issues when we--when  
9 the MSDE staff reviewed the handbooks in terms of the  
10 discipline process or to her statements that might imply that  
11 we might let you in, but we're going to put you out the door  
12 right thereafter.

13           So those are kind of the rules that we tried to  
14 abide by, is that we don't need you to change your  
15 disciplinary policy as long as it's nondiscriminatory, as long  
16 as it doesn't just get based on the fact that a person has a  
17 sexual orientation that is contrary to religious beliefs.

18           And that's the rules we tried to apply here in terms  
19 of each of the schools based on the information they gave us  
20 because MSDE, when it followed up, said please explain what  
21 you mean by the information you have in your handbook in terms  
22 of sexual orientation.

23           So that's kind of where we are, and then those rules  
24 start first with admissions. If you say we're not going to  
25 admit you, then that's pretty clear, but if you say we will

1 admit you--and all of these schools have--you--we're not going  
2 to hold your sexual orientation as a factor in admissions,  
3 then what happens when you get in the school? So that's where  
4 we are.

5 MS. GREEN: Liz, does readmission come into the  
6 conversation? So that, year one, we admit you, then we know  
7 something--and then we will not readmit--we may not kick you  
8 out that year, but we won't readmit you the following year.  
9 Is that--I mean, that really means that they are--they  
10 really--their admissions policy is not neutral on that, but--

11 MS. KAMEEN: You know, yeah, I think it does mean a  
12 readmission, and again, it's the--it's almost like looking  
13 into the intent of the people who are making these decisions.  
14 So--but yes. If it were based on a complaint that, yeah, my  
15 child was not admitted because of the person that he or she  
16 is.

17 MS. SANDBOWER HARBINSON: [via telephone] This is  
18 Beth. First of all, I want to thank you and Alan for such a  
19 well-written memo for the layperson. I read it. I understood  
20 it, thought your reasoning for your recommendations were  
21 clear, and after reading it, I only had one thought that I  
22 wanted to mention to the Committee.

23 I concur with your recommendation for Scenario A, A  
24 and B, and then Scenario C, with Christian Academy, I read it  
25 a couple of times. I thought about it. I read it again this

1 morning. My concern is that because they are combining  
2 promiscuity, pregnancy, and homosexuality as evidence of  
3 devious behavior of a sexual nature and that those are grounds  
4 for expulsion, to me it's a lot clearer in their statement  
5 that--that--that this could be--even though they're not saying  
6 they're not going to let you in because of this, they're not  
7 going to exclude you from applying and being accepted because  
8 of this, that if this become known, that you would be--that  
9 you would be expelled, and that they actually list this as  
10 devious--and define it as devious behavior.

11 I guess I really had a question about your  
12 recommendation for that school based on that reasoning in my  
13 head.

14 MR. GALLAGHER: Well, I think my suggestion would be  
15 that we should probe each of the three with questions before  
16 like we kind of make sure that you're--you don't have any  
17 questions with the--as you just did, you had a question about  
18 the third one. I think before we kind of say I agree with the  
19 recommendation or don't agree with the recommendation, I think  
20 it would be great to afford everybody an opportunity to ask  
21 questions about the scenario and the cases and the fact  
22 pattern before kind of formulating your position.

23 So, you know, since you started with C or 3, I had a  
24 similar question as it related to No. 3. That in the  
25 nondiscrimination statement, it seemed to discriminate and

1 kind of distinguish between heterosexual and homosexual  
2 activity, you know, even by the way it was written. That's  
3 the way I read it.

4 DR. SANDERS: [via telephone] It's pretty clear to  
5 me that way.

6 Liz, I thought you and Alan wrote a very good  
7 statement as well and especially in your discussion that you  
8 talked about the balancing act, which to me means that you're  
9 trying--that there should be some type of agreement  
10 between--you're saying in the handbook in terms of  
11 nondiscrimination and what your practice is going to be.  
12 Otherwise, I mean, it would seem to me we're starting to go  
13 down the road where we'll have a BOOST patrol or something  
14 trying to figure--what do comports with what you said.

15 But that there should be an agreement between--I'm  
16 thinking what you said you are and then what you are in  
17 fact--in fact doing.

18 And so I guess in my--I'm coming down, as I look,  
19 like this--is there some sort of agreement between these two  
20 kinds of statements.

21 MS. KAMEEN: Well, the statements you will find, the  
22 three here--and, Alan, you can jump in--are--again, it's the  
23 balance against--you can have a policy that supports your  
24 religious beliefs. That's the law, and if--

25 DR. SANDERS: [via telephone] Yes.

1 MS. KAMEEN: --your religious belief is that  
2 promiscuity, pregnancy, and homosexuality are evidence of  
3 deviant behavior, this is--this is their--this is the belief  
4 based on their religion.

5 The question then becomes will you refuse to admit a  
6 student who is an LGBT student. Once they're in your school  
7 and you say, "Oh, you know, you're an LGBT student," do you  
8 then automatically tell that student, "We don't want you in  
9 the school anymore?"

10 And on Woodstream, they said when they clarified  
11 that this, meaning sexual orientation, would not prohibit an  
12 admission decision in any way or lead to exclusion from the  
13 school, but for repeated or egregious acts that would lead to  
14 the highest level of discipline as a last resort.

15 Now, how far you look behind that is something you  
16 can talk about. We took people at face value.

17 MR. GALLAGHER: To that, I guess you're making a big  
18 distinction, I think, between the admissions and the  
19 discipline.

20 MS. KAMEEN: Correct.

21 MR. GALLAGHER: Right?

22 MS. KAMEEN: Yes.

23 MR. GALLAGHER: Okay. And it's not considered in  
24 the admissions process, as the first threshold, but it is  
25 considered in the discipline process. And then just carrying



1 that thought out, the handbook language is evidence of deviant  
2 behavior of a sexual nature. For example, promiscuity,  
3 pregnancy, and homosexual will be grounds for expulsion.  
4 Issues of a sexual nature would be dealt with using the Bible  
5 as a guide while maintaining confidentiality.

6 So, as I read that on the discipline side, evidence  
7 of deviant behavior of a sexual nature, promiscuity and  
8 pregnancy obviously implies some action, right? Whereas  
9 homosexuality only implies an orientation.

10 MS. GREEN: I don't know that we can make the  
11 assumption that that's how they intend the language to be read  
12 because that actually wasn't how I read that language.

13 MR. GALLAGHER: So you read it as it could be  
14 inclusive of acts?

15 MS. GREEN: Behavior. I--yes. I was seeing that as  
16 an action piece, not an identification piece, and, I mean,  
17 that's just--that's how I--because they're talking about  
18 behavior.

19 MS. CAMP: [via telephone] Is this--I'm sorry. I  
20 lost you all for a second. Is this the Woodstream in Prince  
21 George's County?

22 MR. GALLAGHER: Yeah. Woodstream Christian Academy.  
23 I don't know if it's in Prince George's County or not.

24 MS. KEARNS: Mitchellville?

25 MR. GALLAGHER: Mitchellville. Yep, it is.

1 MS. CAMP: [via telephone] Yes, yes. Yeah, I'm  
2 very familiar with the--yes.

3 MS. GREEN: I don't draw a--I don't actually see the  
4 distinction between the language that Bethel Christian Academy  
5 uses and what Woodstream Christian Academy uses, and so to me,  
6 I guess I agree with putting them in the same category saying  
7 the language sounds problematic. They're saying we don't  
8 discriminate in our admission piece, and we're looking at  
9 behavioral expectations that have to do with sexual behavior.  
10 And that--perhaps Bethel Christian Academy was a little more  
11 eloquent than what they wrote. That's my--looking at it,  
12 that's where I see it.

13 Whereas the middle one Broadforwarding, they say--I  
14 mean, they come straight out and say, "We will discriminate."

15 MR. GALLAGHER: Okay.

16 MS. SANDBOWER HARBINSON: [via telephone] I see  
17 what you're saying, Elizabeth. I'm also--I guess my question  
18 came up more around the very specific--you're going to be  
19 expelled if you're this, this, or this. So I guess it was the  
20 action associated with the identification that concerned me in  
21 Scenario C.

22 MR. GALLAGHER: I mean--

23 MS. CAMP: [via telephone] I can tell you this  
24 about the school, that I'm--I'm very familiar with the school.  
25 They're a very conservative school, and behavior, whether it

1 was heterosexual or homosexual, will be grounds for expulsion.  
2 So I too don't think it has to do with the orientation. It is  
3 any act. I mean, the school is very, very conservative.

4 MS. SANDBOWER HARBINSON: [via telephone] I  
5 appreciate that.

6 MS. CAMP: [via telephone] I mean the church is  
7 there. So I don't think they make the distinction. If  
8 someone did an act and it was--it wouldn't matter if it was  
9 homosexual or heterosexual is what I'm saying.

10 MS. SANDBOWER HARBINSON: [via telephone] Got it.

11 MS. CAMP: [via telephone] They would have a  
12 problem with it. I don't think that--

13 MR. GALLAGHER: I mean, it's a helpful perspective,  
14 but I have--I have a difficult time relying on that just as  
15 the basis for a decision.

16 MS. GREEN: I think that I--

17 DR. SANDERS: [via telephone] That's what I  
18 meant--You know, you wind up going down the road, having  
19 visitations and such time as [unclear].

20 MS. CAMP: [via telephone] Is there a way to have  
21 them be able to clarify that or no?

22 MS. KAMEEN: We can always ask more questions.

23 MS. GREEN: And I think that that may be the thing,  
24 is to ask for a clarification on that piece. If you have a  
25 person who identifies as homosexual in your school, but there

1 is no evidence of any engaging in sexual activity, would you  
2 expel that child? Would you discipline that child? Because  
3 that's what we're talking about.

4 I think that there are some things that people feel  
5 the need to say, which grates other people tremendously, and  
6 it seems to me that in some of these schools, they feel the  
7 need to single this out, even though, you know, the idea is  
8 any idea is problematic. But that includes that, you know--so  
9 that I think that's the question, is--

10 MS. SANDBOWER HARBINSON: [via telephone] I totally  
11 agree.

12 MS. CAMP: [via telephone] And if they're not  
13 willing to change, as I said--and I understand that, but  
14 I--like I said, I don't attend the church, but I've been  
15 there. It would be both. So I think that they could correct  
16 it in their manual or clarify it in their manual, and I'm very  
17 familiar with the school as well, so I don't necessarily agree  
18 with some of the things, their policies, but I don't think in  
19 this case they're making a distinction.

20 MR. GALLAGHER: I'm find seeking additional  
21 information, but we can't really afford everybody an  
22 opportunity to kind of change language on the fly.

23 I am very uncomfortable like considering them  
24 eligible right now based on this information because of, you  
25 know, describing homosexuality is deviant. I mean, I can't

1 get past that, and I think it runs afoul of the intent and the  
2 direction that we've gotten from the general assembly in terms  
3 of nondiscrimination.

4 And it's not--you know, those are just some of the  
5 words I have a problem with, "evidence of deviant behavior of  
6 a sexual nature." You know, you have "behavior," but then you  
7 have "nature," you know--

8 MS. GREEN: But I'm thinking--and I'm not--and I  
9 certainly am not trying to defend this language, but I'm  
10 trying to look at the actual language. The definition of  
11 deviant means bearing from some norm.

12 DR. SANDERS: [via telephone] Of a norm.

13 MS. GREEN: And so deviant--from a norm. And  
14 deviant can be--if your norm is--has to do with dress,  
15 dressing in a different manner is deviant. It doesn't--that  
16 word, we add a--

17 MS. KAMEEN: Pejorative.

18 MS. GREEN: Yeah, a pejorative interpretation to it,  
19 and I get that it offends--it's offensive language. I'm not  
20 disagreeing with that, but I think that we need to be very  
21 careful about understanding that we're bringing that  
22 pejorative interpretation to it. And if in fact they are  
23 saying any behavior of any sort of sexual nature is deviant,  
24 that they go on to give some examples. I don't--I don't think  
25 that when they say pregnancy, they're trying--it's a

1 gender-specific issue, except that that's the only way it  
2 happens.

3           So I don't--I think that they're just using a few  
4 examples. Again, I think that it's offensive language. I'm  
5 not trying to defend that.

6           DR. SANDERS: [via telephone] Right.

7           MS. GREEN: But I don't think that we--I am in favor  
8 of asking just that very question of is it the actions or is  
9 it the identification because if it's the identification,  
10 absolutely I agree they should be excluded.

11           DR. SANDERS: [via telephone] via telephone] And  
12 I'd wonder about some of the items. What would you consider  
13 hand-holding? If you have a norm for hand-holding in the boys  
14 and the girls, what about if a gay couple were holding hands?  
15 Would that be tolerated? And I think, you know, we could  
16 bring up a whole lot of questions by the way that's written,  
17 and just behavior that is harmless. I mean, I don't think the  
18 public schools--sexual acts going on in the school, but there  
19 are far less--acts of far less degree, which are innocent but  
20 actually that we could see children being discriminated  
21 against.

22           MS. CAMP: [via telephone] So can I ask a question?  
23 Because I think this kind of begs the question for me. I know  
24 that we can't--that the school can't discriminate based on  
25 certain discrete categories. I understand that. Once they

1 are there and they have behavior, if that behavior is  
2 unacceptable across the board to all students, do we take a  
3 peek at that? Is that our place, or do we just make sure that  
4 they--whatever they do, no matter how wrong it may seem that  
5 they do it equally across the board? And it's not a comment.  
6 It really is a question, so I can understand data.

7 MR. GALLAGHER: I think the answer is--is that we  
8 evaluate the handbook and eligibility of the school, and if  
9 they're determined to be eligible, they're in the program, and  
10 if at some point in the future, we become aware of a complaint  
11 or an issue that's inconsistent with the assurances, then we  
12 revisit it.

13 MS. KAMEEN: Right. There is a new provision in the  
14 budget bill this year that says that the schools need to  
15 report the number of students who receive BOOST scholarships  
16 who withdrew or were expelled and the reasons for this they  
17 withdrew or were expelled, dot-dot-dot. So there will be some  
18 explanation of expulsions. Now--and then what you do with it  
19 is up to you.

20 MR. GALLAGHER: Okay. So I think at this point, as  
21 it relates to Woodstream, we don't have a consensus other than  
22 we need additional information as it relates to Woodstream,  
23 and, I mean, I do not agree with the recommendation on  
24 Woodstream.

25 And I will just say I will have an extraordinarily

1 high bar as it relates to my vote on this. I don't think that  
2 this is a close call as it exists right now, but if it's  
3 helpful for the decision-making process to probe further, you  
4 know, deviant behavior, sexual nature, and, you know, what  
5 constitutes--is it an attitude? Is it a belief? Is it a  
6 declaration? Is it hand-holding? And if they want to come  
7 back and explain, you know, what that means and how this is  
8 applied, we can consider that information, I guess.

9 Does anybody want to add anything to that?

10 DR. SANDERS: [via telephone] No. I think you're  
11 expressing much more clearly than [unclear].

12 If I can just go off a little bit for the fact that  
13 it reminds me a little bit of the situation in the [unclear]  
14 here where you had colleges accepting minority students and  
15 getting the federal funding along with that, pretty much  
16 knowing full well those students wouldn't matriculate. So by  
17 the end of the year, there's this great wash-out, but every  
18 year they get a new federal stream coming in, and in essence,  
19 the college wasn't [unclear] much because the students would  
20 come in, but they weren't going to come out. And there was no  
21 real pressure initially until people started becoming aware  
22 that the college had to begin making some accommodations, what  
23 are you doing to ensure the students are going to have a real  
24 opportunity to succeed, blah-blah-blah. So I see some  
25 parallel between that and this as it is.



1 MS. EBERHART: I guess my concern, when you mention  
2 behavior versus orientation, you know, orientation is I think  
3 what we're talking about. And even if they use the word  
4 "behavior," is it orientation?

5 MS. GREEN: I think that's--it is a real question.  
6 I can tell you, because I only know one system truly, in a  
7 Jewish day school, behavior is the issue. It's not  
8 orientation. You may not be comfortable because you don't  
9 have peers. That's a different issue, but if a student  
10 is--wants to be in the school and is comfortable in the school  
11 and is fine in the school, behavior is the focus, and so--and  
12 I can't tell you what the Christian academies are doing.

13 And certainly, I think that you would be hard  
14 pressed to find a Jewish day school in the nation that  
15 is--that has specified homosexuality as the issue because  
16 that's not the issue. It's behavior across the board.

17 So that's where I'm coming from in, and that I have  
18 this belief set that says there are schools that would say  
19 we're only looking at actual engaging in behavior that is  
20 problematic to our belief system, not an orientation. But I  
21 could--I am--I could definitely be wrong, and there are many  
22 schools that have said, "That's not what we're focusing on.  
23 We are focusing on orientation, and we're going to withdraw  
24 from the program." And that's their right.

25 So I think that we need to look because I do believe

1 this is an on-the-line question. If I looked at Bethel  
2 Academy at first, I said, "Oh, clearly, they're out," but  
3 their explanation was different. So that's where I'm coming  
4 from, and that's my knowledge base bringing it into here, and  
5 that, again, this term "deviant," while it's a problematic  
6 term, we bring some of that problem to the definition.

7 MS. EBERHART: Well, and I'm pleased that we're at  
8 least looking beyond the admission that we now have in Liz's  
9 terms, you know, tried to define this, that you don't have to  
10 change what your religious line would be. But we are looking  
11 at--it's more than just getting through the door. It is then  
12 what are you doing during this time period, and that is just  
13 equal to just not getting through the door. So I think we've  
14 moved to that point, and now it's the clarification of, you  
15 know, that. And that's going to be another hurdle to--but we  
16 might just--as we're doing this, it becomes very clear. I  
17 think in a consensus of all of us where we are with  
18 orientation that it's not just getting through the door. It  
19 is this belief of if this is who you are, then, you know, no,  
20 this isn't--you know, we're not putting money into this  
21 program because it's public money in a private school,  
22 so--but, you know--so it's that. I think if we could at least  
23 confirm that we have moved to that piece, so that we don't  
24 then have to revisit this discussion, if we all believe that,  
25 that it's just not the getting through the door, but through

1 the time that you're there, orientation is not going to be the  
2 factor. It is your behaviors that are the significant piece.

3 I don't know if other people feel that. Skipp, do  
4 you agree with that or--

5 DR. SANDERS: [via telephone] I [unclear]  
6 because--and I guess this goes back to the simple thing as the  
7 hand-holding. I mean, if they discipline any hand-holding,  
8 then I have no argument, but I doubt that that may be the case  
9 in many of these instances. So if the behavior straight  
10 across the board is consistent, then [unclear] that's one  
11 thing, you know, but I just personally have my doubt that  
12 that's really what they would do.

13 MS. EBERHART: I mean, so if a boy and a girl held  
14 hands at 6 years old, you know, are they going to, you know,  
15 expel them?

16 DR. SANDERS: [via telephone] Right.

17 MR. GALLAGHER: I mean, we can go crazy on the  
18 scenarios, and, you know, I think we agree on this one that it  
19 needs additional information before--

20 DR. SANDERS: [via telephone] Yes.

21 MR. GALLAGHER: --we can fully consider it, and I  
22 think, you know, what Liz said about, you know, it's not just  
23 the admissions decision, like that that would be kind of--I  
24 think the word you used was "sham," and, you know, I very much  
25 agree with that. Okay.

1           Is there any--does anybody disagree with the  
2 recommendation on Broadforwarding Christian?

3           DR. SANDERS: [via telephone] Well, I guess I was  
4 uneasy with them all, to be honest with you. I just happen to  
5 be--

6           MR. GALLAGHER: You were under the what? I'm sorry?

7           MS. KAMEEN: Uneasy, he said. Uneasy with them all.

8           MR. GALLAGHER: With them all--oh, Okay.

9           MS. EBERHART: I agree. If we were voting, I don't  
10 think any of them have shown that they're in compliance with  
11 what the language supports.

12           DR. SANDERS: [via telephone] Yeah. I just thought  
13 there was some great judgment hair-splitting there.

14           MS. KAMEEN: That's my specialty, Skipp.

15           [Laughter.]

16           MS. SANDBOWER HARBINSON: [via telephone] And I  
17 agree. I'm uneasy with them all as well, yet I again feel a  
18 little bit conflicted and perhaps want to defer to Liz and  
19 Alan's recommendations in this memo, but I'm uneasy with it as  
20 well.

21           MR. GALLAGHER: I mean, I don't think the burden  
22 should be on the Board. I mean, I think, you know, you're  
23 either not discriminating or you're leaving the door open to  
24 discriminating. And I think all three cases, you're very much  
25 leaving a door open to discriminating.

1 DR. SANDERS: [via telephone] Yep.

2 MS. KAMEEN: And, again, I would just advise that  
3 the statute puts that--the tension on the table because you do  
4 not have to change your religious beliefs, any policy that you  
5 have, and it's just the spillover between admissions and what  
6 happens to the student when they get into the school and how  
7 they're dealt with. And it's not--if this--if this  
8 discrimination clause were, for example, we pointed out, as  
9 broad as Title 6 or Title 9 or that covers every--every aspect  
10 of how a school or any--you know, any business needs to  
11 operate in this country, then that would be one thing. But  
12 it's really--so I'm just saying you're on a line that most  
13 discrimination decisions don't necessarily have to consider.

14 MR. GALLAGHER: I guess--look, I think it's--the  
15 advice memo is great, and I think you've explored these issues  
16 very effectively. I have really tried to limit, you know, my  
17 perspective to the actual handbook language, and I think that  
18 in all three cases, it's very problematic.

19 And in the--in the Bethel example, you know, Bethel  
20 Christian Academy supports the biblical view of marriage  
21 defined as a covenant between one man and one woman and that  
22 God immutably bestows gender upon each person at birth as male  
23 or female to reflect his image.

24 And then here's where it becomes problematic:  
25 Therefore, faculty, staff, and students conduct is expected to

1 align with this view. Faculty, staff, and students are  
2 required to identify with, dress in accordance with, and use  
3 the facilities associated with their biological gender.

4 And, you know, without going too far in terms of  
5 scenarios, you know, a person who identifies as a different  
6 orientation from their birth, that language affords them the  
7 opportunity to discriminate. It could be as--it could be as  
8 early as a declaration. it could be as late as an act, you  
9 know, and--

10 DR. SANDERS: [via telephone] Yep.

11 MS. GREEN: But I think this is where we're really  
12 straddling this line, which is really not an easy line to  
13 straddle. That is, is the intent to--at what point are we  
14 excluding a certain category of religious institution, period,  
15 no matter what, no matter how they try to abide by the rules,  
16 because we're projecting certain things?

17 I mean, I don't--I'm just not--I'm not sure where  
18 that line is, and I think that that's what, you know, we're  
19 trying to straddle and try to figure out.

20 MR. GALLAGHER: I don't want to straddle anything.  
21 I want to--you know, to be honest with you, I don't want any  
22 schools to discriminate, and in terms of--this isn't--this  
23 isn't a right. You know, this is an opportunity for these  
24 schools to participate, and the requirement is you don't  
25 discriminate. And if you discriminate or if your policies

1 afford you the opportunity to discriminate, then they have the  
2 right to do that, but they don't necessarily think it's to be  
3 in the BOOST program.

4           And I just think in terms of like the--you know,  
5 when you look at the universe of schools that we've kind of  
6 gone through and that we've accommodated and the ones that  
7 we're--that we've gone back on and that we've found to be in  
8 compliance and the opportunities that we've provided to  
9 provide the handbooks, we're down to these three. And I think  
10 that when you look at the language of these three, that the  
11 best view of it would be we need to get some clarification on  
12 how that's applied and when it kicks in because I think all of  
13 the language is extraordinarily problematic and leaves the  
14 door wide open to discrimination.

15           And, again, just getting back to this program, which  
16 is, what, \$8 million now and thousands of kids have  
17 scholarships, you know, I don't think the burden is on this  
18 Board to figure out, oh, how do we qualify this score? How do  
19 we show that we're being kind of, you know, reading their  
20 handbooks in the best light?

21           I think the burden and duty is on the school to say,  
22 "We don't discriminate," you know, and we shouldn't have to  
23 like be straddling anything.

24           DR. SANDERS: [via telephone] I agree.

25           MR. GALLAGHER: So that's my view.

1 DR. SANDERS: [via telephone] I totally agree.

2 MR. GALLAGHER: So I put--I put Bethel in the  
3 Woodstream category that we can request additional  
4 information, but based on what I have in front of you right  
5 now, I would not vote to put them into the program.

6 DR. SANDERS: [via telephone] What would be their  
7 response to a transgender application?

8 MR. GALLAGHER: I mean, I think that they would say  
9 that it wouldn't be considered in admissions because they  
10 probably don't ask that question, but then if you had a  
11 transgender declaration on the first day of school, does that  
12 initiate disciplinary action, you know?

13 MS. KAMEEN: That's always the question. It's  
14 whether the disciplinary action is based on your orientation  
15 as opposed to some conduct that is disruptive in the school,  
16 and that is a line. I mean, that's--

17 DR. SANDERS: [via telephone] Yeah.

18 MS. KAMEEN: You know, and the whole issue of  
19 transgender students is--is not settled in terms of, you know,  
20 what--I mean, we have court cases going on all over in terms  
21 of whether you need to--you know, if you should be using the  
22 bathroom and the locker room, and so it's--

23 MR. GALLAGHER: Well, this is tricky stuff. There's  
24 no question about it.

25 MS. KAMEEN: Very hard.



1 MR. GALLAGHER: But, you know, it's not back on us  
2 to kind of consort and figure this out. It's on them to show  
3 that they want to be in the program, that they are going to  
4 meet the requirements, and that they're not going to  
5 discriminate.

6 DR. SANDERS: [via telephone] Yep.

7 MR. GALLAGHER: And I just think--

8 DR. SANDERS: [via telephone] [Unclear.]

9 MR. GALLAGHER: --in terms of the whole program and  
10 the vulnerability and the exposure to thousands of students  
11 who are dependent on the scholarship program, you know, I  
12 think it's a huge risk to hang this Board's hat on like  
13 approving language like this as acceptable.

14 I think, you know, we got to go back, ask them for  
15 additional information and clarification and express to them  
16 that there are grave misgivings among some members of the  
17 board as to, you know, what they've got in their handbooks  
18 right now.

19 DR. SANDERS: [via telephone] Yep.

20 MS. GREEN: Matt, in listening to you, I'm  
21 comfortable actually with what you're saying, taking it from a  
22 different perspective from the one that I've been looking at.  
23 And I'm actually troubled by the fact that they have an  
24 opportunity to be here today and they know that they're still  
25 being considered, and we've, you know, been moving the meeting

1 around--

2 MR. GALLAGHER: Yeah.

3 MS. GREEN: --to try to accommodate that. And if  
4 it's--so I'm--

5 MS. EBERHART: If you're happy, can we just vote not  
6 to include them today?

7 MS. GREEN: I'm actually--I'm--again, listening to  
8 what you're saying, Matt, I'm comfortable looking at this  
9 language and saying that it's all fairly similar and to not  
10 include them.

11 MS. KEARNS: And just to pipe--the principal from  
12 Bethel Christian emailed me and said she wouldn't be able to  
13 be at the meeting after all, so--

14 MR. GALLAGHER: Okay. So was that a no or is that  
15 a--

16 MS. KAMEEN: But are you saying no today, but we're  
17 asking you additional questions, or are you saying no?

18 MR. GALLAGHER: I'm a no today for all three. If  
19 there are Board Members who want additional information on 1  
20 and 3, I would be willing to request the additional  
21 information for 1 and 3 and defer action of the Board.

22 If there are Board Members who want to afford 1 and  
23 3 that opportunity, kind of in keeping with our effort to be  
24 inclusive and accommodating and, you know, afford everybody as  
25 many opportunities as possible to kind of participate, but

1 that's--you know, I think it's problematic. You know, we  
2 haven't allowed people to change their handbook language.

3 I think that the best they would come back and do  
4 would be to say it's the act. It's not the intent, but--

5 MS. GREEN: I have a--I'm just sort of thinking,  
6 again, thinking some of this through a little bit more and  
7 trying to understand it. These schools are not single-gender  
8 schools.

9 MS. KAMEEN: Not to my knowledge.

10 MS. GREEN: If you had a school that was a single-  
11 gender school and a student who was transgender is applying--

12 MS. KAMEEN: Oh, my heavens.

13 MS. GREEN: --is that considered--what is that?

14 MS. KAMEEN: I have never thought about that.

15 MS. GREEN: I mean, I'm just sort of thinking that  
16 through. If we're saying that there's a bright line, can  
17 there ever be a bright line on some of this? And--because  
18 that's a little bit of what they're--what Bethel Academy is  
19 getting into, is, you know, with going to specific bathrooms,  
20 et cetera, but I'm prepared to go with the consensus of the  
21 Board.

22 MS. KAMEEN: Which is?

23 MS. GREEN: I mean, I don't know.

24 MR. GALLAGHER: My preference is no on all three.

25 DR. SANDERS: [via telephone] [Unclear.]

1 MS. EBERHART: I agree.

2 MR. GALLAGHER: That's three. Liz? Marva?

3 MS. CAMP: [via telephone] Yes. I'm struggling  
4 just because I'm struggling.

5 I would prefer to ask the additional information on  
6 1 and 3, even though--and I do agree with you that it's the  
7 answer and not the ability to change it, and that going  
8 forward, if they want to change it, then I guess they can  
9 reapply. But I would at least like to know that we are  
10 denying it based on--on the--who the person is as opposed to  
11 the behavior of the person, I guess, even though I'm  
12 struggling and I know I'm being provoked, but--

13 MR. GALLAGHER: No.

14 MS. CAMP: [via telephone] --because I don't agree  
15 even with the policies that they have. But I just am not  
16 convinced we can look at that path, it being  
17 nondiscriminatory, so--

18 MR. GALLAGHER: Liz, you got anything to add?

19 MS. KEARNS: Beth.

20 MR. GALLAGHER: I'm sorry. Beth. I'm sorry. I'm  
21 all confused. Beth?

22 MS. SANDBOWER HARBINSON: [via telephone] I do not.

23 MR. GALLAGHER: Marva, I know that you're relatively  
24 new to the Board, and I would just--just so you know, we've  
25 had unanimous votes on every single item that we've had over

1 the last 2 years.

2 MS. CAMP: [via telephone] Uh-huh.

3 MR. GALLAGHER: And I think that that's really  
4 spoken to how closely we've really tried to work together and  
5 kind of get to a point where we're trying to make this program  
6 as unassailable as possible and the decisions.

7 MS. CAMP: [via telephone] Mm-hmm.

8 MR. GALLAGHER: So I am agreeable to requesting  
9 additional information so that we have the maximum amount of  
10 information to make the decision in hopes that we could  
11 potentially still preserve our record of, you know, complete  
12 consensus on all these decisions.

13 So unless anybody objects, I suggest we request  
14 additional information from 1 and 3 and that we act after we  
15 have that information.

16 Linda, are you okay with that?

17 MS. EBERHART: [Nodding head up and down.]

18 MR. GALLAGHER: Okay. All right. Any other  
19 questions on that?

20 [No response.]

21 MR. GALLAGHER: Okay. So we've got the BOOST budget  
22 bill for 2018-2019.

23 MS. KEARNS: So Liz and Alan and I will work on  
24 something for the Board's review as far as what that request  
25 looks like. Is that--

1 MS. KAMEEN: Mm-hmm.

2 MR. GALLAGHER: Yeah.

3 MS. KEARNS: Okay. Should we talk about the things  
4 that are new?

5 MR. GALLAGHER: Yeah. Just maybe a quick summary of  
6 the new provisions.

7 MS. KEARNS: Mm-hmm. Okay. So does everyone have  
8 Senate Bill 185 in front of them? Mm-hmm. And it starts with  
9 page 144 as far as the BOOST language, and the--the Conference  
10 Committee and subsequently both chambers just struck all of  
11 the prior language and inserted new language, so it all looks  
12 new, but some of it actually is repeated from prior years.

13 So page 144 is not new.

14 Page 145 at the top, letter C, that is big change  
15 for 2018-2019, and it's talking about what the schools need to  
16 do in terms of reporting certain assessment scores. And so I  
17 am working with a different group here within MSDE who is  
18 handling gathering the information from the schools on that.

19 So we've written the assurances for 2018-2019 for  
20 Liz and Alan's review and approval. That has happened. We  
21 will be getting the schools' approval with an electronic  
22 assurance this month in May. So the schools have been told  
23 what they have to do on this requirement and the others  
24 because this is a--this is a change from what it was before.  
25 There are certain tests that they have to agree to use rather

1 than just telling us which types of tests they use for certain  
2 grades and certain subjects.

3 MS. GREEN: And I just--I actually looked back at  
4 all 3 years of the law, and what's interesting is in year one,  
5 there wasn't the breakdown of what years the testing needed to  
6 be given in. Then in year two, that was added but not the  
7 norm reference. And then in year three, there is the  
8 definition of what tests, and the key to that, in my opinion,  
9 is they all cost money to the school. And they cost money to  
10 the school in every year for 6--7 years for math and English  
11 and then 3 years that they have to do it for the science.

12 I just sort of want to bring it up. This is the  
13 language, but bring it up that I think that there may be  
14 schools, and maybe we just have to watch for it. They're  
15 going to have to drop out of the program because if you're  
16 getting \$1,400--one \$1,400 or one \$4,400 student and you now  
17 need to give, you know, 200 students a test, you know, each  
18 year that costs \$30 even per student, it no longer becomes  
19 cost effective for the school. And I'm not sure that that is  
20 really the intent, and I'm not sure that this actually gets  
21 to--gets us further toward the goal of helping improve these  
22 children's lives, which is really what the goal is.

23 So I just--it's the language, but I think that it  
24 may be very expensive for the schools to comply, and there's  
25 no money that's coming to the school to do that.

1 MS. EBERHART: The goal was to improve students'  
2 lives, but the only way we know if that's happening is some  
3 true accountability that's consistent, so this is moving  
4 closer to what the frustration I've had and MSDE with all the  
5 different tests and everything, that, you know, if we're using  
6 assessments as one of those measures--

7 MS. GREEN: I believe in assessments. I'm not  
8 disagreeing with that. I'm just looking at the reality, and  
9 it's only one aspect of their lives. It's not looking at  
10 whether, you know, all the other pieces of their lives that  
11 may be improving, and we can't look at those. We can't  
12 measure that. But I don't know that every year from third  
13 through eighth grade is necessary in order to get to the goal  
14 of a standard idea of--so that if it's three times in  
15 elementary or twice in elementary or something like that, you  
16 might be able to get to the same goal of having a way of  
17 looking and creating a norm. I just think that to keep in  
18 mind that the financial burden may be such that we're going to  
19 lose schools.

20 MS. EBERHART: And are you going to be just not  
21 giving them these assurances, but doing your meeting like you  
22 did last spring, where you could talk to them and call them in  
23 to go through it and give them that opportunity?

24 MS. KEARNS: We did a meeting on Tuesday--

25 MS. EBERHART: Oh, okay.



1 MS. KEARNS: --as part of Debbie's work group, so  
2 it's--and they're always welcome to reach out to us with  
3 questions.

4 MS. EBERHART: Did you get much pushback on this  
5 provision?

6 MS. KEARNS: Not at that meeting. It was a meeting  
7 with a very large agenda, so this was part of it, but we had  
8 the two meetings last year just specifically dedicated to  
9 BOOST assurances, and it didn't seem that we needed to do that  
10 again this year. It seems fine to have it within the context  
11 of another meeting because, honestly, it's just kind of taking  
12 them through what's on the pages.

13 We're not--MSDE is not in any kind of position to  
14 debate or discuss whether these are good ideas. We're just  
15 informing the schools so what we need to do to carry out the  
16 law, and so that's--it's a pretty compact part of the agenda.

17 MS. EBERHART: Mm-hmm.

18 MS. SANDBOWER HARBINSON: [via telephone] As part  
19 of my concern, Monica, to your point, this is--it's the law,  
20 like it or not. It's irrelevant, but I really agree with  
21 Elizabeth's message about this, and I do think that I would  
22 like us to consider continuing this conversation perhaps even  
23 after today, given the time, so that when we respond to report  
24 next year, we talk about this in the context of undue burden  
25 to the school because--I had a conversation with my program

1 administrator about the test, and she said for the larger  
2 schools and schools that fall under an umbrella, such as  
3 schools that are within the archdiocese, there's a large  
4 organization that can be behind this kind of a regulation to  
5 say, "Okay, great. this is what we're going to do for this  
6 many schools."

7           And the smaller schools with tiny administration and  
8 tiny budgets, this potentially becomes different for them.

9           And the third point I want to make is that as it  
10 relates to school choice, there are certainly a number of  
11 parents--I don't know how many--who send their children to  
12 nonpublic school because of issues like test anxiety or the  
13 fact that they feel that assessments are over-focused upon in  
14 the public school system. So I think there are lots of issues  
15 that I would like to have continued conversations around, but  
16 particularly around the burdens that they might--this might  
17 place on the school, both financially and from an  
18 administrative perspective moving ahead. And, you know, I  
19 will continue--we will continue to look at any feedback that  
20 we hear about related to that.

21           DR. SANDERS: [via telephone] I understand Liz and  
22 Beth's points very well. I think that maybe for future  
23 discussions that there could be a way that we could talk about  
24 some sort of meeting point where you have [unclear] without  
25 testing every year. You know, for that, I can definitely see

1 the size of that burden and even recommending some sort of  
2 funding inclusion in it more or some testing, whatever that  
3 reasonable amount of testing may be decided to be.

4 MS. SANDBOWER HARBINSON: [via telephone] I love  
5 that idea, Skipp.

6 That levels the playing field too for, again--

7 DR. SANDERS: [via telephone] Mm-hmm.

8 MS. SANDBOWER HARBINSON: [via telephone] [unclear]  
9 part of a larger group where, just like anything else, if I'm  
10 buying 500 tests, the cost of that test is much different than  
11 if I'm buying 50.

12 DR. SANDERS: [via telephone] Yes.

13 MR. GALLAGHER: Okay.

14 MS. KEARNS: Okay?

15 MR. GALLAGHER: Anything else on that?

16 [No response.]

17 MR. GALLAGHER: Okay. What else we got new?

18 MS. KEARNS: Okay. So then page 145, letter D,  
19 starts the nondiscrimination requirements, and that is the  
20 same.

21 So now I'm on page 146, and No. 2 is the same.  
22 That's just eligibility for free and reduced meals. It  
23 determines whether families qualify for scholarships, and then  
24 let's see. The next new part is on page 147, No. 6, and this  
25 is where it says that the Board shall take into account the

1 special needs of students with disabilities when determining  
2 scholarship award amounts.

3           So we do have a question on the application that  
4 asks parents whether the student--here's the language of it.  
5 Is the student eligible for an individualized education  
6 program, a 504 plan, or an individual services plan? So we  
7 are gathering that information as part of the application  
8 process. So when we start reporting to you soon about the  
9 different categories of applicants, that will be part of it.

10           MS. GREEN: Monica, [unclear] is that--did you get  
11 guidance from the Attorney General in defining that? Only  
12 because a lot of kids in the private school system have  
13 testing, but they don't have IAPs. They don't--haven't done  
14 it through--

15           MS. KEARNS: Right. It took me a minute, but I did  
16 use Alan and Liz's language that is in the parent assurance  
17 that we used last year and have used again now for 2018-2019,  
18 but then I spoke with Marcella Franczkowski, who leads our  
19 Special Education Division here, and this is what we settled  
20 on. So the individual services plan is for the students.  
21 That's the--that's recognized under the IDEA legislation, the  
22 federal law, and that's the pathway and the vehicle for  
23 students who are in the private schools who receive those  
24 services.

25           So that--so I guess the answer is yes, I did confer

1 with people, but if it needs to be further explored, I can  
2 do--

3 MS. GREEN: I don't know that it needs it. I'm  
4 just--I'm just thinking about the practical of kids that--if  
5 the school accommodates with having some private testing and  
6 then--like I don't know what the intent was, and we're back to  
7 language gets thrown in here, and there's not a whole lot  
8 behind it to help us. But is the goal to lessen the burden  
9 for our family that is paying for a shadow? Well, if they're  
10 paying for a shadow because the school requires it, but they  
11 don't have a--you know, a mandate for it, is that--I think  
12 they don't qualify under this explanation if they're--if the  
13 goal is to lessen the burden on families that couldn't afford  
14 tutoring or--then--and, again, it's not intended to be  
15 critical. It's just to understand, you know, whether we're  
16 missing some people in that definition and who should have  
17 been caught up.

18 MS. EBERHART: It's an--I would like to know more  
19 about this individual service plan. So, in a private school,  
20 is this something that a parent--it's language that they would  
21 know?

22 MS. GREEN: It is not--I will tell you I have  
23 children who have had testing. They--I do not know this  
24 language at all. We got testing done. We handed it to the  
25 school. They did whatever they did with it, and then we

1 worked with them to create whatever we could create. But I've  
2 never heard the term.

3 MS. KEARNS: So if you look--I'm sorry. I'm just  
4 going to point you, just so you have some words in front of  
5 your eyes, there's a handout that says at the top "BOOST  
6 Scholarship 2018-2019 Application Summary." And that has  
7 three tables on it, and the lowest table is just showing a  
8 breakout of the application status and then the parent  
9 response to the question that we put.

10 So you'll see at the top heading of the table is the  
11 question that's on the application. So for students with  
12 disabilities, colon, is the student eligible for one of those  
13 things, so--okay. So--

14 MS. KAMEEN: Alan and I are just talking, and I know  
15 that we've looked at this question. You're right. An  
16 "individual service plan" might not be a term that a parent  
17 would know, but let's talk about this with Monica--

18 MS. KEARNS: Sure.

19 MS. KAMEEN: --because it's how do you identify who  
20 are the kids.

21 MS. KEARNS: And I have no idea. I'm just--

22 MS. KAMEEN: Right. Yeah. And you're saying there  
23 may be children who are in nonpublic schools who have special  
24 needs, but there's no formal plan. There's no formal--like in  
25 public schools, there are formal plans.

1 MS. GREEN: And maybe the answer is that there just  
2 are going to need to be, and that's an okay answer if that's  
3 what it is, but--

4 MS. KAMEEN: So you--Alan can describe it.

5 MR. DUNKLOW: An individual service plan is--as you  
6 mentioned with your conversation with Marcella--is sort of the  
7 vehicle through which a privately placed student doesn't have  
8 an IAP, but they may have some services, right? Because as we  
9 also know in the application, that you don't have the same  
10 entitlements to the free appropriate public education that  
11 public school would make available. And so it's sort of an  
12 imperfect comparison of an IAP versus an ISP, in a public  
13 versus a private setting, but I think the goal was to create  
14 categories that have some definition because that means that  
15 they're getting some services currently according to some plan  
16 that the school that they're in has created, whatever that may  
17 be called, versus sort of special needs may be very broad and  
18 very informal, and so in terms of reporting it, it was trying  
19 to create categories that would be known.

20 MS. GREEN: And in getting an individual services  
21 plan, I know that students that are in nonpublic school can  
22 sometimes go to the public school in their area--

23 MS. KAMEEN: And that's what that is.

24 MS. GREEN: --and get testing.

25 MR. DUNKLOW: And--yeah. So there's a whole section

1 of IDA about private placements and like consultation with the  
2 public schools and stuff like that, so that can get  
3 complicated.

4 MS. GREEN: And that's what--is that what this is,  
5 the taking your child who is in a nonpublic school to the  
6 public school for evaluation, testing, or whatever you want to  
7 call it, that the individual services plan is what comes out  
8 of that?

9 MR. DUNKLOW: Oh, I don't know if the evaluations  
10 have--at the public school system or where they happen, but  
11 that--it's through that consultation process that they're  
12 accessing some proportion of share of services.

13 MS. GREEN: Okay. So it doesn't require where  
14 I'm--what I'm concerned about is private testing is extremely  
15 expensive and generally not covered or very--very minimally  
16 covered by insurance. So if you have a family that is low  
17 income that has a child who has some level of learning  
18 difference or special need or disability, whatever we want to  
19 define, are they going to be able to access without paying for  
20 it out of pocket, something that will give them this that  
21 could then qualify them as a student with a disability?  
22 That's--

23 MR. DUNKLOW: Yeah. I don't know, I mean, if this  
24 was just to create some new workable categories to identify  
25 within the pool.



1 MS. GREEN: Yeah.

2 MS. KEARNS: And Marcella, our Special Education  
3 Division lead, just agreed that this is another--

4 MS. GREEN: Those are definitions.

5 MS. KEARNS: --example where this is going to be  
6 tricky, and it may evolve, I'm anticipating, because in some  
7 cases, the language refers to special needs. In some cases,  
8 it refers to students with disabilities, and I think there's  
9 even a third version later when it mentions the money of how  
10 it refers to these students.

11 So it was not a clear-cut directive. So, just so  
12 you know--but we're here, and we'll keep working on it as we  
13 need to.

14 MS. GREEN: That's fine. I'm just looking at it and  
15 bringing in that perspective.

16 MS. EBERHART: And I would like more--when we get to  
17 this point of trying to figure this out, I mean, I understand  
18 IAPs and 504 plans, but maybe not everyone even on the BOOST  
19 Board. So if we could then have some information about  
20 all--how it's handled in public school and private school and  
21 all the different levels because, as I, you know, thought  
22 about this piece of it, oh, this can get very in depth of  
23 awarding--is it going to be based on their level of need, a  
24 third additional scholarship, or whatever? So there could be  
25 much more. So if at some time in the future, if we could just

1 first all ground ourself in what's existing out there, that  
2 would be helpful.

3 DR. SANDERS: [via telephone] Mm-hmm.

4 MS. KEARNS: Okay. So we're on page 147. That was  
5 No. 6.

6 And the next new piece is on page 148. They do  
7 start specifying when they want cutoffs for awards to be made.  
8 So the Board made decisions at its February 21st meeting and  
9 gave MSDE directions to do some awarding of available funds,  
10 so I did carry those out. So I--that's the March 1 deadline  
11 that they brought in here, but I did carry out your directives  
12 from the February 21st meeting.

13 And then on page 149, they do not want any new  
14 awards to be made after January 15, 2019. So that is a  
15 different approach than what the Board has taken in year one  
16 and year two to try and continue going down the eligible list  
17 to award the funds, so we'll have to plan for that.

18 And then on page 149, starting on row--line 12,  
19 there's a requirement that the Board needs to make  
20 recommendations to the budget committees about encouraging  
21 nonpublic schools to admit students with special needs who  
22 receive the BOOST scholarships. That's due December 1.

23 And on line 22, \$600,000 of the available funds  
24 shall be used only for awards for students with special needs  
25 and--

1 MR. GALLAGHER: So further--

2 MS. KEARNS: Mm-hmm.

3 MR. GALLAGHER: What are higher--meaning like value,  
4 higher scholarship awards?

5 MS. KEARNS: That's how I read it.

6 MS. GREEN: Yeah.

7 MS. KEARNS: Liz and Alan, do you read it any other  
8 way? It would mean higher value?

9 MR. DUNKLOW: I mean, in the paragraph 6 that you  
10 reference, it talks about subject to the scholarship award  
11 amount, so they're sort of linking it to--you're still capped  
12 at the statewide per pupil and tuition of the schools.  
13 They're referencing amount.

14 MS. KEARNS: Yes.

15 MR. GALLAGHER: So a third tier of value.

16 MS. KAMEEN: We've got a new--new category, new  
17 award category.

18 MS. KEARNS: Or third and fourth.

19 MS. KAMEEN: New award category.

20 MS. GREEN: Could be. And interesting--again,  
21 totally not in here is schools that are specifically or  
22 particularly good at providing these--that type--nonpublic  
23 schools are particularly devoted toward special education are  
24 probably mostly not included in the BOOST-eligible schools.

25 MR. GALLAGHER: Because of the tuition cap.

1 MS. GREEN: Yes.

2 MS. KEARNS: Yes.

3 MS. GREEN: So that's sort of a--again, it's the  
4 laws that we're working with, but it's sort of an interesting  
5 little piece that they're not--

6 MR. GALLAGHER: Do we know where that came from?

7 MS. KEARNS: I don't, not at all.

8 MR. GALLAGHER: Okay. I mean, we should probably  
9 try to--

10 MS. KAMEEN: Find out.

11 MR. GALLAGHER: --find out because I think--

12 MS. KAMEEN: There was some legislative history  
13 around that or some debate or some--

14 MR. GALLAGHER: Because if we come back next year  
15 and we don't have an applicant pool, like, you know--I just--I  
16 wouldn't want to like run into a situation like where it looks  
17 like we didn't try to work with that provision, and, you know,  
18 the provision might not reflect the reality of the schools  
19 that are eligible for the Textbook Program, the students that  
20 get serviced within this category.

21 I mean, maybe there is enough demand. I don't know,  
22 but--

23 MS. KEARNS: Well, we have--as of Monday, we had  
24 about 1,100 application--sorry--2,500 applications either  
25 completed or in some stage of completion, about 1,500 fully

1 submitted, and either eligible or ineligible, so sorry. Let  
2 me just cut to the chase. Of 1,100 eligible applicants, as of  
3 Monday, 77 parents said that the students were eligible for--

4 MR. GALLAGHER: Okay.

5 MS. KEARNS: --special education services.

6 MR. GALLAGHER: Okay.

7 MS. KEARNS: So that's where it was on Monday.

8 MS. GREEN: And, Matt, was your question, when you  
9 said do we know where it came from, you're saying--

10 MR. GALLAGHER: The legislator. I assume there was  
11 a legislator who said, "I want to make sure that special  
12 education kids get certain awards or there's a certain level  
13 of participation." Like this seems kind of like there's a  
14 legislator who wanted that language. That would be my guess.

15 Do you have any idea?

16 ATTENDEE: We'll see if we can track it down.

17 MS. KEARNS: We'll see if we can find--

18 ATTENDEE: I have some ideas. I don't know a  
19 specific legislator, but--

20 MR. GALLAGHER: Okay.

21 MS. KEARNS: I'll see what I can find out.

22 ATTENDEE: I think it came out of the conference.

23 MR. GALLAGHER: Do you know who? I mean--

24 ATTENDEE: Everybody [unclear].

25 MR. GALLAGHER: Okay.

1           ATTENDEE: Just want to help these students  
2 [unclear].

3           MS. KEARNS: Okay. so we were on page 149, talking  
4 about the \$600,000, and row 22 starts talking about the funds  
5 that are served for the students. And here, it says students  
6 with special needs, so again, it's different phrasing.

7           Then it gets into the reporting requirements, which  
8 we have a little bit more time this year. We have until  
9 January--January 2019 instead of December. The new reporting  
10 requirements include--so the assessment reporting will  
11 be--will correspond to the new requirements, and then it's the  
12 same until we get down to page 151, No. 13--I'm sorry.

13           ATTENDEE: [Unclear.]

14           MS. KEARNS: I'm sorry?

15           ATTENDEE: You have No. 9 at the bottom on page 115.  
16 I would guess--

17           MS. KEARNS: Right. Actually, they did ask us that.  
18 We did--

19           MS. GREEN: Had to collect it.

20           MS. KEARNS: Yeah. We did have to collect that data  
21 for 2017-2018. I double-checked it the other day. Just made  
22 me want to lay eyes on it again, but they actually did--the  
23 schools had to report whether the student was a special  
24 education student or not, and that was--we just took the  
25 language right out of the budget bill. And it was a yes/no

1 for 2017-2018, and that was a data point in the report to the  
2 General Assembly. But that was kind of the extent of it for  
3 the current year.

4 So that that's the same. The number of special  
5 education students--

6 MS. EBERHART: That the private schools told us--

7 MS. KEARNS: Mm-hmm.

8 MS. EBERHART: --however they define special  
9 education.

10 MS. KEARNS: Right. English language learner and  
11 special education, they had to report on that for each BOOST  
12 student, whether it was yes or no for English language learner  
13 and special education.

14 And so then No. 13 on page 151 is what Liz referred  
15 to a little earlier. We're going to need to get information  
16 from the schools on BOOST students in 2017-2018 who withdrew  
17 or were expelled and the reasons why.

18 MS. EBERHART: And they didn't do anything to  
19 clarify prekindergarten to kindergarten, if they were public,  
20 private, not home school or anything. So whatever we came up  
21 with last year must be okay.

22 MR. GALLAGHER: Okay. I think that's it, right, on  
23 the agenda?

24 MS. KEARNS: That's it.

25 MR. GALLAGHER: Okay. Were there any public

1 comments?

2 [No response.]

3 MR. GALLAGHER: Merciful. Okay.

4 Anybody else have anything to add?

5 MS. CAMP: [via telephone] No, I don't.

6 MR. GALLAGHER: Okay.

7 MS. EBERHART: The timing of our next meeting?

8 MR. GALLAGHER: Yeah, timing of the next meeting, I  
9 guess.

10 MS. EBERHART: It would be helpful for me.

11 MR. GALLAGHER: Partially--so what like--

12 MS. KEARNS: The deadline for applications is May  
13 21st.

14 MR. GALLAGHER: Got it.

15 MS. KEARNS: We need a week or so to really work on  
16 the data, you know, so early, early June, we should have the  
17 data ready for you to start making decisions.

18 MR. GALLAGHER: Great.

19 MS. KEARNS: Mm-hmm.

20 MR. GALLAGHER: So early June meeting for that and  
21 then--

22 MS. KEARNS: Okay. Send out a--

23 MR. GALLAGHER: Maybe have additional information on  
24 two schools that we've requested additional information from.

25 MS. KEARNS: Okay.



1 MR. GALLAGHER: And then--

2 MS. KEARNS: I'm sorry. A separate meeting on that?

3 MR. GALLAGHER: No, no. For the June meeting.

4 MS. KEARNS: At the same meeting, okay.

5 MR. GALLAGHER: Yeah.

6 MS. KEARNS: Okay.

7 MR. GALLAGHER: And then--

8 MS. EBERHART: Maybe a whole special education  
9 funding piece of trying to figure out what that means.

10 MR. GALLAGHER: And then maybe the schedule? Like  
11 we had that schedule discussion about looking at the schedule.

12 MS. EBERHART: With our goal of 1st of July maybe?

13 MS. KEARNS: I would be very shocked if it was July  
14 1, but--

15 MS. EBERHART: But I don't want us to hold you up.

16 MS. KEARNS: Right.

17 MS. EBERHART: So if it means that we need to  
18 schedule several meetings in June--

19 MS. KEARNS: Okay.

20 MS. EBERHART: --let's get it on our calendar so we  
21 can't--you know, so it's not like another--you're waiting on  
22 us.

23 MS. KEARNS: Right, okay. All right. It seems that  
24 we would need more than one meeting, given how year two  
25 and--one and two went, so maybe schedule two meetings for

1 June, should we?

2 MR. GALLAGHER: Sure.

3 MS. KEARNS: Just in that or--

4 MR. GALLAGHER: Schedule a meeting like when you  
5 feel comfortable based on the applications coming in and then  
6 why don't you schedule a meeting 2 weeks after that--

7 MS. KEARNS: Okay

8 MR. GALLAGHER: --so there's enough time for actions  
9 and follow-up and, you know--

10 MS. KEARNS: Okay.

11 MS. GREEN: Okay. Okay. We'll do that.

12 Okay. All right. With that said, we'll adjourn.

13 Thanks, everybody.

14 MS. SANDBOWER HARBINSON: [via telephone] Thanks,  
15 everybody.

16 DR. SANDERS: [via telephone] Thank you. Good job,  
17 Matt. Thank you.

18 MR. GALLAGHER: Thanks, Skipp.

19 [End of recorded session.]

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CERTIFICATE OF TRANSCRIPTIONIST

I, Jennie Malloy, do hereby certify that the foregoing proceeding was transcribed from a digital recording provided to me by Alliance Defending Freedom and thereafter was reduced to typewriting by me or under my direction.1.

There was no court reporter present at the proceedings, and the speaker identities were not provided to me; thus, I identified the speakers to the best of my ability, though I cannot verify the accuracy of the speaker identification since I was not present.

I am not related to any of the parties in this matter, and this transcript is a true and accurate record of said digital audio recording to the best of my ability.

The above information has been transcribed by me with a pledge of confidence, and I do hereby certify that I will not discuss or release the content or any information

9/12/2019

**X** Jennie Malloy

**X**

Jennie Ann Malloy

Jennie Ann Malloy

Signed by: Malloy

Jennie Malloy, Transcriptionist  
Malloy Transcription Service

# **EXHIBIT 39**



Deposition of:  
**Marva Jo Camp**

*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  
MARVA JO CAMP was taken on April 21, 2021,  
commencing at 2:12 p.m., via Zoom before Diane  
Houlihan, a Notary Public.

Corbin Reporting and Video  
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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

|    |                            |  |      |
|----|----------------------------|--|------|
| 1  | I N D E X                  |  |      |
| 2  | Name of Witness            |  | Page |
| 3  | Marva Jo Camp              |  |      |
| 4  | Examination by Mr. Reed    |  | 7    |
| 5  |                            |  |      |
| 6  | E X H I B I T S (ATTACHED) |  |      |
| 7  | EXHIBIT                    | DESCRIPTION  | PAGE |
| 8  | Exhibit 2                  | 2017-2018 Bethel Christian<br>Academy Parent/Student Handbook  | 55   |
| 9  |                            |  |      |
| 10 | Exhibit 9A                 | Letter to BOOST Schools from<br>Matthew Gallagher Dated 12/19/17   | 18   |
| 11 | Exhibit 10                 | Letter to Claire Dant from<br>Monica Kearns Dated 3/5/18   | 47   |
| 12 |                            |  |      |
| 13 | Exhibit 11                 | Letter to Ms. Kearns from<br>Claire Dant Dated 3/13/18   | 49   |
| 14 | Exhibit 16                 | Letter to Ms. Kearns and BOOST<br>Advisory Board from Claire Dant  |      |
| 15 |                            | Dated 5/29/18  | 83   |
| 16 | Exhibit 31                 | House Bill 150 - Budget Bill 2018  | 22   |
| 17 | Exhibit 33                 | Memo to Matt Gallagher and<br>Monica Kearns from   |      |
| 18 |                            | Elizabeth Kameen and Alan Dunklow<br>Dated 1/9/18  | 34   |
| 19 |                            |  |      |
| 20 | Exhibit 35                 | Broadening Options and<br>Opportunities for Students Today<br>(BOOST) Advisory Board Meeting,<br>February 21, 2018, Summary of |      |
| 21 |                            | Decisions  | 44   |



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E X H I B I T S (Continued)

|            |   |    |
|------------|---|----|
| Exhibit 36 | Broadening Options and Opportunities for Students Today (BOOST) Advisory Board Meeting, June 21, 2018, Summary of Decisions | 69 |
| Exhibit 37 | Transcript of BOOST Advisory Board Meeting June 21st  | 72 |
| Exhibit 38 | Transcript of BOOST Advisory Board Meeting, Undated   | 60 |
| Exhibit 41 | Letter to Monica Kearns from Warren Barrett Dated 6/4/18  | 88 |
| Exhibit 69 | Broadfording Christian Academy Student-Family Handbook 2017-2018  | 75 |

1           IT IS HEREBY STIPULATED AND AGREED that  
2           the reading and signing of this deposition are not  
3           waived.

4                           MARVA JO CAMP,  
5           duly been sworn to tell the truth, the whole truth,  
6           and nothing but the truth, testifies as follows:

7                   THE VIDEOGRAPHER: Good afternoon. We are  
8                   going on the video record at 2:12 p.m. on  
9                   Wednesday, April 21, 2021.

10                   This is media unit number one in the video  
11                   deposition of Ms. Marva Jo Camp in the matter  
12                   of Bethel Ministries versus Salmon, et. al.,  
13                   filed in the United States District Court for  
14                   the District of Maryland, Northern Division.  
15                   Case number 1:19-CV-01853.

16                   This deposition is being held via Zoom.

17                   My name is Eliza Spikes, and I am from the  
18                   firm Veritext. The court reporter today is  
19                   Ms. Diane Houlihan, also from Veritext.

20                   I'm not authorized to administer the oath,  
21                   I am not related to any party in this action,

1 nor am I financially interested in the outcome.

2 Counsel and all present in the room and  
3 anyone attending remotely will now state their  
4 appearances and affiliations for the record.

5 If there are any objections to this proceeding,  
6 please state them at the time of your  
7 appearance, beginning with the noticing  
8 attorney.

9 MR. REED: We have Jacob Reed for the  
10 plaintiff, Bethel Ministries. And Paul Schmitt  
11 and Ryan Tucker observing.

12 MR. FINE: Justin Fine, assistant attorney  
13 general. I represent the defendants in this  
14 case as well as the witness today. And my  
15 colleague, Mr. Robert Scott, will be observing  
16 only.

17 THE VIDEOGRAPHER: Thank you.

18 Will the court reporter please swear in  
19 the witness?

20 (Whereupon the witness was sworn.)

21 E X A M I N A T I O N

1 BY MR. REED:

2 Q Good afternoon, Ms. Camp. My name is  
3 Jacob Reed. I'm an attorney representing Bethel  
4 Ministries in this case as I just mentioned, as well  
5 as my colleagues who are here on the Zoom as well.

6 You can refer to me by Jake if you need to  
7 address me. Or if you can't hear anything I say or  
8 don't understand my questions, feel free to call me  
9 Jake.

10 And is it okay to call you Ms. Camp?

11 A Yes.

12 Q Okay. Good. And like I just said, if you  
13 can't hear me or if you need me to rephrase the  
14 question, please just let me know. That's fine.

15 And I know the court reporter just asked.  
16 No one else is in your room with you. But I would  
17 just ask if anyone comes into the room while you're  
18 giving testimony or while this deposition is  
19 ongoing, that you would please let us know. Okay?

20 A Okay.

21 Q Okay. A few other housekeeping matters.

1                   Do you have anything with you as far as  
2 notepads, a cell phone, anything on your desk in  
3 front of you?

4                   A     I do.

5                   Q     Okay. And what do you have?

6                   A     I have my purse, I have folders for my  
7 last meeting, and I have my phone, and I have a  
8 notebook from my last meeting.

9                   Q     Okay. And your last meeting, it does not  
10 pertain to this case?

11                  A     It does not.

12                  Q     And would you just make sure your phone is  
13 turned on silent or flipped over so --

14                  A     It's on silent already.

15                  Q     Okay. As far as anything pulled up on  
16 your screen, am I the only thing on your screen or  
17 do you have other browsers pulled up?

18                  A     I have my e-mails, but I can't see them  
19 because you're taking up the screen.

20                  Q     Okay. That's fine. I would just ask that  
21 you make sure nothing pops up that you can read.

1           The point being you can't receive any  
2 assistance as you're answering questions. So as  
3 long as you can't see those things --

4           A     Well, I can say that I won't be receiving  
5 any assistance.

6           Q     Okay. Fair enough. So we'll do a few  
7 generic questions here and then we'll get into it.

8                     Can you please state your full name and  
9 spell it for the record, please?

10          A     First name, Marva Jo. Well, my full name  
11 is Marva Jo Camp. First name M-A-R-V-A, space, J-O.  
12 Last name C-A-M-P.

13          Q     Okay. And where do you live?

14          A     1301 Sea Pines Terrace, Mitchellville,  
15 Maryland.

16          Q     And is that where you're at right now or  
17 it looks like --

18          A     No. I'm in Lanham, Maryland, at Dewberry  
19 Engineers.

20          Q     Okay. So take me through your educational  
21 background.

1 A How extensive do you need?

2 Q You can start with high school. Just tell  
3 me where you went, what degrees you received.

4 A Okay. Eleanor Roosevelt High School in  
5 Greenbelt, Maryland, Prince George's County.

6 University of Virginia undergrad,  
7 government foreign affairs.

8 University of Virginia School of Law, JD.

9 Q And when did you graduate law school?

10 A 1986.

11 Q Okay. Are you licensed to practice law?

12 A In Maryland and the District of Columbia.

13 Q Okay. So tell me your professional  
14 background, if you will. You can start from law  
15 school to present.

16 A That's a lot of telling, but okay.

17 I worked --

18 Q You don't have to give specific details.  
19 Just where you worked and for how long.

20 A I worked on Capitol Hill as tax counsel to  
21 Ways and Means, to staff counsel for Foreign Affairs

1 Committee.

2 I worked for the African Development Bank.

3 I have worked for Bowie State University.

4 Since 2000, I worked for a couple of law  
5 firms.

6 And since 2000, I have been in private  
7 practice, my own law office. I'm a sole  
8 practitioner. Primary area of law is land use and  
9 real estate development.

10 I also am a lobbyist and I represent small  
11 minority and women-owned businesses and  
12 not-for-profit. So that's my primary practice area.

13 Q Do you lobby state legislatures or federal  
14 or both?

15 A I have in the past lobbied federal. I  
16 have in the past lobbied state on behalf of the  
17 Prince George's County Council and some utilities.

18 Because of my land use work now, I don't  
19 lobby either unless it's in the context of projects  
20 that we're doing.

21 I also serve on the Maryland Citizens for



1 the Arts Board, which is an advocacy organization,  
2 which causes me to advocate in Annapolis.

3 Q Okay. So you have a pretty extensive  
4 resume?

5 A A little resume, not extensive.

6 Q Very good. Okay. So let's talk about  
7 your position as a BOOST Board member.

8 And if I'm correct, you were appointed at  
9 the end of 2017, correct?

10 A You probably know better than I. So if  
11 you say 2017, that's probably correct.

12 Q Okay. Do you know how you were appointed  
13 to the position?

14 A As I said, I worked on the Board of  
15 Maryland's Citizens for the Arts. And I believe  
16 that my work on that got the attention of  
17 Mr. Gallagher. And he told me about this Board, and  
18 they wanted to get representation from Prince  
19 George's County and asked if I would be willing to  
20 serve.

21 Q That's Chairman Gallagher, Matthew

1 Gallagher?

2 A Yes.

3 Q And did you have to apply to be appointed  
4 to the Board or talk me through that process?

5 A I don't remember other than I was  
6 appointed. I received information from the  
7 governor's office that I was being appointed from  
8 whomever and I was appointed.

9 Q Okay. So that brings me to my next  
10 question.

11 If I understand correctly, BOOST Board  
12 members are either appointed by the governor's  
13 office or the speaker of the House of Delegates or  
14 the president of the Senate.

15 Do you know which office had appointed you  
16 to your position?

17 A I do not.

18 Q You do not, okay. So do you recall your  
19 first interaction with the BOOST Board, when was  
20 that?

21 A I do not.

1           Q     Do you not, okay. Can you tell me just  
2 about generally the BOOST Board dynamics? How does  
3 it work? How does the Board members interact with  
4 one another?

5                     Just talk me through how the Board  
6 interacts and gets things done.

7           MR. FINE: Objection. Form. You can  
8 answer.

9           A     Okay. The only thing I think I can say is  
10 that the dynamics for me is that it's a very  
11 professional-acting Board, that everybody is given  
12 an opportunity to say what they need to say so that  
13 that collaboration can occur.

14          Q     Okay. Does the Board interact outside of  
15 Board meetings?

16          A     I can't speak to what the Board does. I  
17 can speak to what I do.

18                     As I mentioned, I serve on the Maryland  
19 Citizens for the Art, as does Chairman Gallagher.  
20 So I've interacted with him in that capacity outside  
21 of the Board.

1           Q     I guess a better question -- and I'm  
2           sorry. That was not a clear question. Do the Board  
3           members discuss with one another outside of Board  
4           meetings any business that pertains to the BOOST  
5           Board?

6           A     My answer would probably be the same. I  
7           can't speak for anybody other than me.

8                     I have not had any dialogue outside of the  
9           Board meetings. And outside of the Board meetings,  
10          to my knowledge, I have not interacted as it relates  
11          to BOOST business with Chairman Gallagher.

12          Q     Do the BOOST Board members, for you as a  
13          BOOST Board member, do you e-mail amongst each  
14          other?

15          A     Only e-mails that I am aware of are those  
16          that may come from administrators to the whole BOOST  
17          Board. If a Board member -- I cannot speak to what  
18          BOOST, individual BOOST members do.

19                     To my knowledge, I've never received an  
20          e-mail that was outside of the full e-mail chain.

21          Q     Okay. So you were appointed in December

1 of 2017 I believe.

2 And during that time, there was a handbook  
3 review process ongoing.

4 Does that sound familiar, for  
5 participating schools?

6 A If you're talking -- can you be more  
7 specific? I'm sorry.

8 Q Right. So in the fall of 2018, the  
9 Maryland Parent Teacher Association raised a concern  
10 with the BOOST Board about schools that participated  
11 in the BOOST program and language they had in their  
12 handbook.

13 Does that sound familiar?

14 A Well, I need -- you have the date that I  
15 was appointed, right? It was December?

16 Q I don't have the exact date, but it was in  
17 December, correct.

18 A Okay. If they did that in the fall, that  
19 would have predated my appointment.

20 Q Correct, correct. So my question is were  
21 you aware of that prior to your appointment?

1 A Prior to my appointment, I was not.

2 Q Okay. Did you see anything in the media  
3 or the news or have any information regarding this  
4 concern with language in BOOST schools' handbooks  
5 prior to your appointment?

6 A I was not.

7 Q Okay. So let's talk about that a little  
8 bit. I believe the first meeting you attended was  
9 in December of 2017.

10 Do you recall that meeting at all?

11 A I do not.

12 MR. FINE: Objection. Form.

13 Q Okay. Do you recall the Board discussing  
14 anything as it pertains to BOOST schools' handbooks?

15 A Generally over my course of being on the  
16 Board, we've had discussions about handbooks.

17 Q Sure. Do you recall in December of 2017  
18 the BOOST Board decided to send out a assurance  
19 letter seeking BOOST schools to submit their  
20 handbooks?

21 A I do.

1 Q Okay. I'm going to share an exhibit.  
2 Give me one second here. I've yet to do this yet.  
3 So if you'll bear with me.

4 A No problem.

5 Q I'm going to share my screen now.

6 (Exhibit 9A, Letter to BOOST Schools from  
7 Matthew Gallagher Dated 12/19/17, was  
8 previously for identification. Exhibit to be  
9 attached to the transcript.)

10 Q Okay. Can you see this document which is  
11 marked Exhibit 9A?

12 A It's very tiny. Yes.

13 Q Let me zoom in here.

14 Is that better?

15 A A little bit. My computer is up to my  
16 face.

17 Q Okay. Well, if I'm pointing to a specific  
18 paragraph or sentence, if you need me to zoom in,  
19 just let me know. Okay?

20 A Okay.

21 Q Do you see this is marked 9A, previously

1 marked?

2 A I do.

3 Q And it's kind of covering the Bates stamp,  
4 though. But it's Bates stamped Bethel Defendants  
5 243.

6 Do you see that?

7 A Yes.

8 Q Okay. Have you seen this letter before?

9 A I have.

10 Q And am I correct that this is the letter  
11 the BOOST Board sent to BOOST participating schools  
12 in December of 2017?

13 A To my knowledge, it is.

14 Q Okay. Did you see this letter in draft  
15 form before it was sent out?

16 A I don't recall.

17 Q Okay. And this is signed by Matthew  
18 Gallagher, the BOOST chairman, correct?

19 A It says that it is.

20 Q What was your understanding of the purpose  
21 of this letter?



1           A     If you don't mind, I want to go over it.

2           Q     Yeah. That's fine. Take your time. Look  
3 over it. Let me know, if you need me to scroll or  
4 whatever, let me know. And tell me when you're  
5 done.

6           A     I think this, if I recall, this was with  
7 respect to those schools, a review of schools that  
8 had signed assurances, an indication that those  
9 schools who may not be in compliance with those  
10 assurances.

11          Q     Okay. Tell me about those assurances.  
12 What do you know about those?

13          A     To -- and I would have to look at the  
14 actual page that they signed. But to my  
15 understanding is, was that assurances that they  
16 would not discriminate based on race, gender, sexual  
17 orientation. Basically nondiscrimination  
18 assurances.

19          Q     Okay. Stop sharing this.

20                   I'm going to pull up another exhibit here.  
21                   Before I introduce this, do you know why

1 schools were asked to sign those assurances?

2 A That's a pretty broad question. I need a  
3 little more clarity.

4 Q Well, the assurances you just said were  
5 the schools agreed that they wouldn't discriminate  
6 on a couple of different categories of areas.

7 I guess my question is just why were they  
8 asked to sign those assurances?

9 A I think a couple, if I recall. I can only  
10 go by what I believe.

11 Q Sure.

12 A I can't speak for what the whole Board.

13 I think it was to ensure that we were  
14 treating all schools equally universally and that  
15 every school understood what the expectations were  
16 of them with respect to their nondiscrimination  
17 policy so that they would be on notice as they went  
18 through the process.

19 Q Do you know what or where the  
20 nondiscrimination policy came from?

21 A I do not.

1 Q You do not. Do you not know today or you  
2 did not know then?

3 A I don't know then. I don't know now.

4 I know that as a Board, it was felt that  
5 we should have, based on the legislation, a  
6 nondiscrimination policy. And I believe that the  
7 assurances was a way to implement the intent of the  
8 legislation that created BOOST, to my knowledge.

9 Q Okay. So was it your understanding that  
10 the Board was implementing the legislation that  
11 created BOOST?

12 A If I recall correctly, yeah.

13 Q I'm going to share my screen again.

14 A Okay.

15 Q And this has been previously marked as  
16 Exhibit 31.

17 (Exhibit 31, House Bill 150 - Budget Bill  
18 2018, was previously marked for  
19 identification. Exhibit to be attached to the  
20 transcript.)

21 Q Can you see that?

1 A I can.

2 Q Is it small?

3 A Very. But --

4 Q Because I have a big screen here. So it's  
5 a lot larger.

6 A It's up to my face. So it's okay.

7 Q Can you see it? Is that okay?

8 A It's fine.

9 Q And this is Bates stamped starting 0058,  
10 which was Exhibit 2 to plaintiff's Motion for  
11 Preliminary Injunction.

12 A Okay.

13 Q Do you know what this document is?

14 A I'm seeing it for the first time, to my  
15 knowledge.

16 Q This is the first time you've seen this  
17 document?

18 A To my knowledge, yes.

19 Q Okay. You see it says House Bill 150 --

20 A Yes.

21 Q -- budget bill fiscal year 2018?

1 A Yes.

2 Q Okay. So I'll just represent to you this  
3 is the budget bill that I guess created or funded  
4 the BOOST Board.

5 A Okay.

6 Q So I'm going to go to that provision here.  
7 Do you see here on what's labeled page 136  
8 starting at R00A03.05?

9 A Yes.

10 Q Broadening options and opportunities for  
11 students today?

12 A Yes.

13 Q Have you seen this language before?

14 A I'm not sure if I've seen it in this  
15 budget bill since I don't recall seeing this budget  
16 bill.

17 Q Okay. Have you seen it elsewhere?

18 A Not to my knowledge. I may have seen the  
19 language in here, but I don't know in what context.

20 Q Okay. Without reference to this document  
21 here, when you were first appointed to the Board in

1 2017, what was your understanding that BOOST schools  
2 could not discriminate based on?

3 MR. FINE: Objection. Form.

4 A I can't answer anyway. Don't know what my  
5 belief was in 2017.

6 Q As of today, what is your belief that  
7 BOOST schools cannot discriminate based on to  
8 participate in the program?

9 A My understanding is there should be no  
10 discrimination, that there should be no  
11 discrimination. I think that there's language in  
12 the assurances, and that is consistent with my  
13 understanding, that would include race, gender, and  
14 sexual orientation.

15 Q Okay. So back to Exhibit 33 here.

16 To participate in the program, there are  
17 certain requirements a participating school would  
18 have to meet, correct? And they're set out in one  
19 and then the subdivisions A, B, C, and D?

20 A Can you stop for a minute?

21 Q Yup. Sure. How about this? Why don't

1           you --

2           A       I saw what I was looking for.

3           Q       Okay.  If you want to look over these  
4           briefly and then --

5           A       If you do subsection D.

6           Q       Yup, sure.

7           A       Okay.  Right there.  Comply with title  
8           six, okay.

9           Q       You can read it.  Why don't you read it  
10          out loud.  That's fine.

11          A       Just race, color, national origin, or  
12          sexual orientation.

13          Q       And then can you read this next sentence  
14          out loud?

15                 MR. FINE:  Objection.  The document speaks  
16          for itself.

17                 You can answer.

18          A       Okay.  Nothing herein -- I have nothing to  
19          answer.  But nothing herein shall require any school  
20          or institution to adopt any rule, regulation, or  
21          policy that conflicts with its religious or moral

1 teachings, yes.

2 Q So when you were appointed to the BOOST  
3 Board in 2017, were you aware of this provision in  
4 what I'll call the BOOST law, the budget bill?

5 A I don't remember.

6 Q Do you remember when you became aware of  
7 it, if you became aware of it?

8 MR. FINE: Objection. Form.

9 Go ahead.

10 A I'm aware today of the general provisions  
11 as it relates to nondiscrimination and also about  
12 the adoption of rules, regulations, yes. I'm  
13 familiar with both today.

14 Q Okay. But you don't recall when that came  
15 to light to you?

16 A I do not.

17 Q Do you think, is it fair that you maybe  
18 even became aware of it during the handbook review  
19 process throughout December and January of '17 and  
20 '18?

21 MR. FINE: Objection.



1                   Go ahead.

2                   A     As indicated, I don't know when. But I am  
3 aware. So if I had to guess, and I would only be  
4 guessing at that, I became aware of it as we  
5 discussed handbooks.

6                   Q     Okay. Let's talk about when you say we  
7 discussing handbooks, is that the BOOST Board?

8                   A     Yes.

9                   Q     Okay. So tell me a little bit about that,  
10 the BOOST Board discussing these handbooks.

11                   Let me rephrase. Strike that.

12                   A     Okay. Good. Thank you.

13                   Q     Sure. That was very broad.

14                   Do you know why the BOOST Board requested  
15 handbooks from schools?

16                   A     If I recall, we wanted to make sure that  
17 those schools that were receiving funds from State,  
18 who were receiving State funds made it clear that  
19 they had a nondiscrimination policy and that the  
20 handbooks would be an opportunity to review those  
21 policies in that respect.

1 Q So from your position, did schools have to  
2 have a nondiscrimination policy in their handbook?

3 A What I will say, and I don't feel  
4 comfortable answering that. But what I will say is  
5 that they were required to sign assurances. And I  
6 believe that the BOOST Board wanted to make sure  
7 that the handbooks were consistent with the  
8 assurances made to BOOST.

9 Q Okay. So the letter I just showed you  
10 from December '17, do you recall, do you know when  
11 schools submitted their handbooks, do you know where  
12 those handbooks went?

13 A I do not.

14 Q Do you know who reviewed these handbooks?

15 A I can't speak broadly to who, no.

16 I know we discussed it, but I don't  
17 know -- I guess we would have -- I don't know. I  
18 would be guessing. Sorry.

19 Q Well, let me ask you this. Did they come  
20 to the BOOST Board? Did the BOOST Board sit down  
21 and handbook by handbook look over each and every

1 one?

2 A I don't recall.

3 MR. FINE: Objection. Form.

4 You can answer.

5 A I don't recall.

6 Q Did you have any interaction with Maryland  
7 State Department of Education staff regarding these  
8 handbook reviews?

9 A I don't. I think we've had  
10 representations from Dr. Grasmic, if I recall. But  
11 I don't know if they were MSDE staff that I had  
12 interaction with.

13 Q Did you have any discussions with Monica  
14 Kearns regarding review of handbooks?

15 A Yes. I think as anything that we did,  
16 which I guess would be reflected in the minutes, any  
17 discussions that Monica, Ms. Kearns, made, I would  
18 have had access if I was in attendance at a Board  
19 meeting.

20 Q Do you recall any of those interactions --

21 A I don't.

1 Q -- discussions?

2 Do you know from how many BOOST  
3 participating schools handbooks were requested from?

4 A I do not.

5 Q Do you know if it was all schools?

6 A My understanding, that handbooks would  
7 have been asked of any school that was potentially a  
8 recipient of dollars coming from BOOST.

9 Q Do you know how many schools actually  
10 submitted handbooks?

11 A I do not. But I do think that it was a  
12 requirement to be able to receive funding.

13 Q And why was it a requirement?

14 A Whoops. Let me move around. I'm in a  
15 room that the lights go off. Sorry.

16 Q Oh, it's okay. Go ahead.

17 A Sorry about that.

18 Q No problem.

19 A If you would repeat the question, please?

20 Q You said it was a requirement for BOOST  
21 schools to receive funding, that they had to submit

1 their handbooks.

2 And my question was why was that a  
3 requirement?

4 A As I said earlier, I believe that the  
5 BOOST Board wanted to ensure that we were carrying  
6 out the required mandates of the legislation.

7 In order to do that, we wanted to put any  
8 kind of safeguards in place that would ensure  
9 universality of the way we were dealing with all  
10 schools and also transparency as it related to that.

11 So every school would have been given the  
12 assurances to sign, which made it clear that we were  
13 transparent as it related to what we required. And  
14 also that they would sign it so that they were  
15 informed about what the BOOST Board was requiring.

16 Having that handbook allowed us to be able  
17 to then take those assurances and make sure it was  
18 consistent with the handbooks.

19 From my perspective, we wanted to make  
20 sure that there was fairness and transparency and  
21 the ability for all schools, as they took the time

1 to submit for funding, that they were on full notice  
2 as to what those expectations were.

3 Q So is it fair to say that the BOOST Board  
4 made it a requirement to submit handbooks?

5 MR. FINE: Objection. Form.

6 A I'm not sure there was a -- that was as a  
7 practice. I'm not sure. It was our practice to  
8 request.

9 Q So what happened if a school who was  
10 participating in the BOOST program did not submit  
11 their handbook?

12 A I don't know. My understanding was that  
13 schools were required to submit the handbook. If  
14 that was not the case, it was not anything that I  
15 knew.

16 Q What happened if a school did not have a  
17 handbook?

18 A I'm not aware of what happened in those  
19 cases.

20 Q Okay. I'm going to pull up another  
21 exhibit here. Sorry. I'm kind of slow at this

1 technology.

2 A I'm slow, too. So no problem at all.

3 Q I want to make sure I label it correctly.

4 (Exhibit 33, Memo to Matt Gallagher and  
5 Monica Kearns from Elizabeth Kameen and Alan  
6 Dunklow Dated 1/9/18, was previously marked for  
7 identification. Exhibit to be attached to the  
8 transcript.)

9 Q Okay. Can you see this document?

10 A Give me a second. I have to pick up my  
11 computer. Okay. I can see it.

12 Q This has been previously marked  
13 Exhibit 33. Bates stamped Bethel Defendants  
14 1332.001.

15 Have you seen this document before?

16 A I have.

17 Q When did you first see this document?

18 A I don't recall.

19 Q Okay. You see it's dated January 9, 2018,  
20 correct?

21 A Yes.

1 Q And it was addressed to Matt Gallagher and  
2 Monica Kearns, correct?

3 A Correct.

4 Q Would you have received it in January of  
5 2018?

6 A I don't recall.

7 Q Okay. Why don't we go ahead and review  
8 the document, look over it to yourself, and let me  
9 know when you need me to scroll, and then we can  
10 talk about it.

11 A You can scroll.

12 Q Okay.

13 A You can scroll. I've seen it. Okay.

14 Q You're good, okay.

15 A I think so.

16 Q Can you tell me, kind of looking at  
17 paragraphs one, two, and three right here, can you  
18 kind of summarize or tell me what this is  
19 discussing?

20 MR. FINE: Objection. Document speaks for  
21 itself.



1                   You can answer.

2                   Ms. Camp, I'll let you know. You can  
3                   answer anytime I object. Only when I say do  
4                   not answer is when you can't answer.

5                   So I'm not going to let you know that you  
6                   can answer from here on out.

7                   THE WITNESS: Okay.

8                   MR. FINE: Might be a little bit easier.  
9                   Thanks.

10                  THE WITNESS: I was reading it. I knew.  
11                  I was just reading.

12                  MR. FINE: Yes, ma'am.

13                  A        The first one, expressly reserves the  
14                  right to refuse admission based on sexual  
15                  orientation. So it's overt and on its face  
16                  discriminatory.

17                  The second one looks at sexual misconduct,  
18                  which deals with nonmarital sexual conduct and  
19                  homosexual, which is on its face does not also apply  
20                  to heterosexual presumably.

21                  And the third is where the admissions

1 requirement is silent as it relates to sexual  
2 orientation.

3 Q Okay. Do you recall discussing these I'll  
4 call them categories or buckets of schools with the  
5 BOOST Board?

6 A I believe I do.

7 Q Do you know which school -- let me  
8 rephrase.

9 Do you know who classified schools as  
10 either a category one, two, or three school?

11 A I am not.

12 Q I'm sorry. Did you say you're not?

13 A I am not. I don't know who -- I mean my  
14 assumption is based on this, that we would have  
15 gotten that as a legal, not a legal opinion, but  
16 some guidance.

17 Q From the Attorney General's Office?

18 A Yes.

19 MR. FINE: Ms. Camp, I'll remind you that  
20 you shouldn't speculate or guess or assume  
21 anything in your answers.

1           A     Okay. I'm only saying it because the  
2           letter is written from the Office of Attorney  
3           General.

4           Q     Okay. I'm going to -- let me ask you  
5           this.

6                     So the plaintiff in this case, Bethel  
7           Ministries and Bethel Christian Academy, are you  
8           familiar with that school?

9           A     I'm familiar with the name.

10          Q     Do you recall discussing it throughout,  
11          I'll just say throughout 2018 during this process?

12          A     I'm familiar with discussing our  
13          nondiscrimination requirements. And if in that  
14          context it came up, then yes.

15          Q     Okay. Do you recall ever reviewing Bethel  
16          Christian Academy's handbook?

17          A     I don't. I may have, but I just don't  
18          remember.

19          Q     Okay. So was it your understanding that  
20          schools that were categorized as category one or two  
21          were automatically disqualified from participating

1 in BOOST?

2 MR. FINE: Objection. Form.

3 A It was not my understanding about  
4 automatic.

5 It was my understanding that that was  
6 from -- that they were disqualified -- that those  
7 were grounds for disqualification.

8 Q What about category three schools?

9 A My understanding, if I recall, is that we  
10 had an affirmative responsibility to make sure that  
11 a school did not discriminate based on race, gender,  
12 or sexual orientation, and that that policy should  
13 be made clear from the handbook and/or be consistent  
14 with the assurances that that school had to make to  
15 the BOOST Board.

16 Q So for these category three schools, was  
17 it your understanding that they had to affirmatively  
18 state in their handbook that they don't discriminate  
19 on those categories you just mentioned?

20 MR. FINE: Objection. Form.

21 A My understanding is that we had an

1 affirmative obligation as the BOOST Board to make  
2 sure we were in compliance with the legislative  
3 mandates of nondiscrimination and that -- and yeah,  
4 that we were in compliance with the  
5 nondiscrimination as it related to all areas as  
6 outlined in the legislation.

7 Q And what did the legislation mandate?

8 A If I recall, and I think you showed it to  
9 me in the budget bill, at the very least, race,  
10 race, gender, sexual orientation.

11 Q And it was discrimination in admissions,  
12 correct?

13 A I don't recall. Just that we would not --  
14 that the school would not discriminate. And if I  
15 had it in front of me --

16 Q Here it is.

17 A Yeah.

18 Q Go ahead and read that highlighted  
19 portion.

20 A I'm reading it.

21 Q Can you read it out loud, please?

1           A     To be eligible to participate in BOOST  
2 programs, a nonpublic school must not discriminate  
3 in school admissions on the basis of. And then it  
4 doesn't speak to all of it. Sexual orientation.

5           Q     Right. And I think the others were --

6           A     Race.

7           Q     -- race and --

8           A     Gender.

9           Q     Well, I think that came about later, but  
10 we'll address that later.

11                   So in your position as a BOOST Board  
12 member, how would a school go about ensuring they  
13 don't discriminate in student admissions on the  
14 basis of sexual orientation?

15           A     I can't speak to that, what they would do.

16                   What I can speak to is that as a BOOST  
17 Board, we needed to write requirements and  
18 assurances that, to the extent possible, would  
19 ensure that we were meeting the mandate of the  
20 legislation.

21           Q     Okay. So not the BOOST Board as a whole,

1 but you personally in your opinion, how would a  
2 school ensure that they don't discriminate in  
3 student admissions based on sexual orientation?

4 MR. FINE: Objection. Form.

5 A I don't want to speak to how a school  
6 would do it.

7 What I would say is that I think  
8 personally that the assurances that we set out that  
9 we asked people to sign and making sure that it was  
10 clear from their handbook, would ensure that we were  
11 informing that school what the requirements were and  
12 that they were transparent in terms of making it  
13 clear that they don't discriminate based on, and I'm  
14 saying all three, race, gender, and sexual  
15 orientation.

16 Q So for you, if a school signed the  
17 assurance, would that be enough to make them  
18 eligible?

19 A No. What would be -- I think that the  
20 process that the BOOST Board established, and this  
21 is I'm saying for me personally, the BOOST Board

1 policy of requiring schools to sign the assurances  
2 and the additional requirement of providing the  
3 handbook for review, maximize our ability to make  
4 sure that we were meeting the mandate of the  
5 legislation.

6 Q Did schools' handbooks have to contain  
7 certain language?

8 A Well, I do think that if it was clear as  
9 it related to their nondiscrimination policy with  
10 respect to race and gender, it was deafening as its  
11 silent to other areas of nondiscrimination. So I  
12 think that there should have been, me personally  
13 again, an affirmative declaration of  
14 nondiscrimination as it related to all of those  
15 things that were provided in the legislation.

16 Q And in your view, if a school did not have  
17 that affirmative declaration, that they did not  
18 discriminate in admissions based on sexual  
19 orientation, then that in itself would make them  
20 ineligible to participate in the BOOST program?

21 MR. FINE: Objection. Form.



1           A     I repeat what I believe, that every school  
2           that wanted to receive State funding, to ensure that  
3           we met our mandate as a Board, that we were well  
4           within our discretion to request assurances and an  
5           affirmative declaration inside of their policy that  
6           spoke to each one of those elements of the  
7           legislation.

8           Q     Do you know if Bethel Christian Academy  
9           signed an assurance to participate in the BOOST  
10          program?

11          A     I don't know.

12          Q     Give me one second.

13                   (Exhibit 35, Broadening Options and  
14           Opportunities for Students Today (BOOST)  
15           Advisory Board Meeting, February 21, 2018,  
16           Summary of Decisions, was previously marked for  
17           identification. Exhibit to be attached to the  
18           transcript.)

19          Q     Okay. I have introduced, this is marked  
20          Exhibit 35. And it's Bates stamped Bethel  
21          Defendants 3477.001, correct? You see that?

1 A I see Exhibit 35, yes.

2 Q Okay. Is that better, a little bit?

3 A I see S3477, yeah.

4 Q Sorry. I didn't mean to cut you off.

5 A No, you didn't.

6 Q So do you know what this document is?

7 A Not unless I read it.

8 Q Okay. Take a look at it. Let me know  
9 when to scroll.

10 A You can go up.

11 Q And we're more or less looking at this  
12 section here.

13 A Okay. Okay. Okay.

14 Q Now, this was a summary of a BOOST Board  
15 meeting on February 21, 2018, correct?

16 A Yes.

17 Q Were you at that BOOST Board meeting?

18 A We said I joined the Board when?

19 Q In December of '17. So I think you would  
20 have been a member.

21 A Yes. Whether or not I was at that

1 particular meeting, I don't know.

2 Q Do you recall any discussions as it  
3 pertains to the legal advice memo from January and  
4 further the nondiscrimination requirements?

5 A I generally remember discussions when they  
6 took place about making sure that we met the  
7 mandates of our nondiscrimination. So I assume.

8 Q Okay. Do you remember the discussion  
9 about the category three schools at all?

10 A I remember generally our desire to ensure  
11 that there was an affirmative affirmation of  
12 nondiscrimination.

13 Q Okay. And it looks like the Board decided  
14 to seek additional information from category three  
15 schools; is that correct?

16 A I can't say it's correct.

17 I'm reading this. That's what this says  
18 as the summary.

19 Q Do you know what category Bethel Christian  
20 Academy was placed in?

21 A If I recall, they would have been in the

1 third category.

2 Q Okay. So that was kind of the -- I think  
3 the legal memo describes them as a gray area?

4 A I guess so.

5 Q Okay. So does it sound accurate that MSDE  
6 followed up with those category three schools after  
7 that February 21st meeting?

8 A I don't know personally, but I see what  
9 the suggestion that was made.

10 Q So you don't know if MSDE sent a letter to  
11 category three schools?

12 A If I recall, that there were some schools  
13 that had not met the requirements. Whether or not  
14 they sent it to them as a category three school or  
15 whatever, just that we wanted to make sure all  
16 schools were in adherence to the requirement.

17 Q Give me one second, please. I want to  
18 make sure these are labeled correctly.

19 (Exhibit 10, Letter to Claire Dant from  
20 Monica Kearns Dated 3/5/18, was previously  
21 marked for identification. Exhibit to be

1 attached to the transcript.)

2 Q I'm showing you what I've previously  
3 labeled Exhibit 10, Bates stamped Bethel Ministries  
4 Defendants 51-001.

5 A Okay.

6 Q Have you ever seen this document before?

7 A Not until today, to my knowledge.

8 Q Okay. So this is the first time you're  
9 seeing this?

10 A To my knowledge.

11 Q Can you read this paragraph I highlighted  
12 out loud?

13 MR. FINE: Objection.

14 A Before the BOOST Advisory Board can  
15 authorize payment of the BOOST scholarship to  
16 students in your school, the Advisory Board asks  
17 that you explain how your handbook statement  
18 reconciles with the assurance the school signed  
19 regarding nondiscrimination admission. A brief  
20 written response by March 14, 2018, will be helpful.

21 Q Thank you. So is it fair to say the BOOST

1 Board wanted to ensure that schools were complying  
2 with the assurances they had previously signed?

3 MR. FINE: Objection. Calls for  
4 speculation.

5 A I'm not sure I understand the question.

6 I can't speak for the whole Board. Again,  
7 I think the BOOST Board always wants to make sure  
8 that the schools are in compliance with the  
9 legislative mandate.

10 Q Okay. So I'm going to show you Bethel's  
11 reply to that letter, which let me get it marked  
12 here.

13 (Exhibit 11, Letter to Ms. Kearns from  
14 Claire Dant Dated 3/13/18, was previously  
15 marked for identification. Exhibit to be  
16 attached to the transcript.)

17 Q I'm showing you what has been previously  
18 marked Exhibit 11.

19 A Okay.

20 Q And it starts at Bates stamp 0069, which  
21 is Exhibit 3 to plaintiff's Motion for Preliminary

1 Injunction.

2 Have you ever seen this document before?

3 A I have not. Well, to my knowledge. I'm  
4 sorry. I may have seen it at the time. I just  
5 don't remember.

6 Q You don't recall reviewing --

7 A No, I don't.

8 Q So again, this is in response to the  
9 letter we just looked at on March 5th to the Board,  
10 its concern with how Bethel Christian Academy's  
11 student handbook reconciles with the assurance BCA  
12 signed regarding nondiscrimination and student  
13 admissions, correct?

14 A Yes. I'm reading.

15 Q Okay. And they go through, list their  
16 nondiscrimination policy, this additional statement.

17 And then this is really -- oh, I can't  
18 highlight.

19 Can you read --

20 A I can read it. I'm reading.

21 Q Can you read the sentence out loud that

1 starts with Bethel --

2 A Bethel Christian Academy does not ask any  
3 questions about sexual orientation at all during the  
4 admissions process and is willing to enroll any  
5 student who meets the academic criteria and whose  
6 past school conduct has not been demonstrably  
7 (sic.) disruptive, demonstrably disruptive in  
8 previous schools.

9 Do you want me to keep going?

10 Once a student is admitted, he or she is  
11 expected to comply with the behavioral expectations  
12 and is subject to disciplinary action for violations  
13 of those behavioral standards, including engaging in  
14 sexual behavior of any type, whether heterosexual or  
15 homosexual.

16 Q Thank you. Does this statement reconcile  
17 with the BOOST nondiscrimination in admissions based  
18 on sexual orientation requirement?

19 A In my personal opinion, it does --

20 MR. FINE: Sorry. Objection. Form.

21 I think my Internet cut out for a second.



1 I apologize.

2 Go ahead, Marva Jo.

3 A In my personal opinion, it does not.

4 Q Why does it not?

5 A I believe that it's important that there  
6 be a nondiscrimination policy on its face that makes  
7 clear that there is no discrimination based on race,  
8 gender, or sexual orientation.

9 Q Does the BOOST law, House Bill 150 which  
10 we looked at earlier, require schools to have an  
11 affirmative nondiscrimination policy as such?

12 MR. FINE: Objection. Form.

13 A One is I'm not familiar with the  
14 legislative narrative that went and I wasn't privy  
15 to the discussions that went and around the passage  
16 of the BOOST legislation. So I can't speak to the  
17 intent of the legislation.

18 I can read the full face of it of what it  
19 said in the budget document that showed me that said  
20 no discrimination as it relates to race, gender,  
21 sexual orientation. And I believe personally that

1 we should not have to guess, that it should be an  
2 affirmative statement of nondiscrimination.

3 Q So the BOOST law requires schools to not  
4 discriminate in admissions based on sexual  
5 orientation, correct?

6 A Correct.

7 Q And Bethel Christian Academy was flagged  
8 by whomever as a borderline category three school,  
9 correct?

10 MR. FINE: Objection. Form.

11 A I can only -- I can't speak to what they  
12 did, but...

13 Q And Bethel Christian Academy responded and  
14 affirmatively said they don't ask questions about  
15 sexual orientation and they will admit anyone into  
16 the school who meets the academic criteria and whose  
17 past school conduct has not been demonstrably  
18 disruptive in a previous school, correct?

19 A That's what this letter says.

20 Q And just so we're clear, for you, as a  
21 sitting BOOST Board member during this time period

1 and currently, that is insufficient to meet the  
2 BOOST law nondiscrimination requirements?

3 MR. FINE: Objection. Form.

4 A It is my belief that a nondiscrimination  
5 policy should be specific as to nondiscrimination at  
6 the very least as it relates to race, gender, and  
7 sexual orientation.

8 Q Okay. So if a school doesn't have a  
9 handbook, right, how do they meet your requirements  
10 as you just said?

11 A I'm not sure. As I said, I can only say  
12 what we require. And if some school comes up with  
13 another way that can meet what I believe to be an  
14 affirmative responsibility to state clearly and  
15 transparently that they do not discriminate on the  
16 basis of race, gender, sexual orientation, then I  
17 would be very open to looking at it.

18 In this case, it was silent. And so  
19 therefore, it was not clear and transparent to me.

20 Q Okay. So let's take a look at Bethel's  
21 handbook from '17 and '18. Okay.

1                   And this is marked Exhibit 2. And it's  
2 stamped 002, which was Exhibit 1 to plaintiff's  
3 Motion for Preliminary Injunction.

4                   (Exhibit 2, 2017-2018 Bethel Christian  
5 Academy Parent/Student Handbook, was previously  
6 marked for identification. Exhibit to be  
7 attached to the transcript.)

8           Q     Have you seen this document before?

9           A     I don't recall.

10          Q     Okay. And just to be clear and for the  
11 record, during the winter and spring of 2018 when  
12 the BOOST Board was considering Bethel's  
13 participation in the BOOST program, you never  
14 reviewed Bethel Christian Academy's handbook?

15                   MR. FINE: Objection. Form. Objection.

16                   Asked and answered.

17                   You may answer.

18           A     I don't recall.

19          Q     So I'm going to take you to their  
20 admissions policy. And why don't you look over  
21 this. And if you need me to scroll or move around,

1 let me know. Read through it and let me know when  
2 you're done.

3 A Okay. You can go up to the statement of  
4 nondiscrimination, please.

5 Yes, I've read it.

6 Q Okay. Now, do you recall what decision  
7 the Board ultimately made with whether Bethel could  
8 participate in the BOOST program?

9 A If I recall, the Board decided that Bethel  
10 did not conform to the assurances that they made  
11 with respect to the nondiscrimination based on race,  
12 gender, and sexual orientation.

13 Q Why not?

14 A I believe that the Board made a policy  
15 decision in order to ensure the transparency, equal  
16 treatment of all schools, that an affirmative  
17 statement of nondiscrimination would be required in  
18 order to receive BOOST funds.

19 Q So your testimony here today is that the  
20 BOOST Board decided that all schools had to have an  
21 affirmative policy on nondiscrimination, including

1 categories such as sexual orientation, to  
2 participate in the BOOST program?

3 MR. FINE: Objection. Mischaracterizes  
4 the witness's testimony.

5 A Thank you.

6 And I repeat it. I can only speak to me.  
7 My vote would have been for an affirmative policy  
8 stating nondiscrimination in all categories set  
9 forth in the legislative mandate. That would have  
10 included, for me, race, gender, and sexual  
11 orientation.

12 Q Can you tell me in Bethel's handbook  
13 anywhere on this page where they reserve the right  
14 to deny admission to a student based on sexual  
15 orientation?

16 MR. FINE: Objection. Compound question.

17 Jacob, are you referring to this page or  
18 the whole handbook because you mentioned both?

19 MR. REED: Well, I think just this page.

20 MR. FINE: Okay.

21 A I can't speak to what Bethel has done.

1 I can again repeat, for me I would have  
2 wanted to see an affirmative nondiscrimination  
3 statement.

4 So if, where it said any race, color,  
5 national, ethnic origin, or sexual orientation,  
6 which would have for me been an affirmative  
7 statement of nondiscrimination so that there was no  
8 reason for me to guess, it would have been outlined  
9 in the policy.

10 Q So if they would have just added sexual  
11 orientation in here, that would have been sufficient  
12 for you?

13 MR. FINE: Objection. Form.

14 A I don't know.

15 My expectation would have been they would  
16 sign an assurance that they would not discriminate  
17 and that there would be included in their handbook  
18 an affirmative statement with respect to race,  
19 gender, ethnicity, and sexual orientation.

20 Q So let me ask you this. Are you aware  
21 that federal law requires nonprofit schools to not

1 discriminate only based on race, color, and national  
2 and ethnic origin?

3 A I'm not aware of federal laws.

4 Q Okay.

5 MR. FINE: Jacob, I could use a break any  
6 minute. I don't want to interrupt your flow,  
7 but is now a good time?

8 MR. REED: Yeah. Let's take ten minutes.

9 MR. FINE: Okay.

10 THE VIDEOGRAPHER: Off the record at  
11 3:15 p.m.

12 (Recess taken.)

13 THE VIDEOGRAPHER: This is the beginning  
14 of media unit number two.

15 Back on the record at 3:28 p.m.

16 Q Okay. Give me one second. I'm sorry.

17 We're back. Okay. Ms. Camp, I want to  
18 talk about the BOOST Board meeting from May 3, 2018.

19 Do you recall that meeting?

20 A I don't.

21 Q You don't?



1           A     If you ask me any date specific, I'm not  
2 going to recall. I'm sorry.

3           Q     That's okay. All right. Well, let me  
4 pull up the transcript from that meeting, let you  
5 look through it, and maybe it will refresh your  
6 recollection a little bit.

7                     Let me see here. It's loading. So bear  
8 with me.

9                             (Exhibit 38, Transcript of BOOST Advisory  
10 Board Meeting, Undated, was previously marked  
11 for identification exhibit to be attached to  
12 the transcript.)

13          Q     I'm showing you what's been previously  
14 marked Exhibit 38.

15                     Can you see that?

16          A     Yes.

17          Q     And this is Bates 0161, which was  
18 Exhibit 12 to the plaintiff's Motion for Preliminary  
19 Injunction.

20                     Can you read this right here aloud for the  
21 record, please?

1           A     Transcript of BOOST Advisory Board, Matt  
2           Gallagher.

3           Q     And for whatever reason, the date is not  
4           on here. But I will represent to you that this is  
5           the transcript from the May 3, 2018, meeting.

6                     So let me find the right page. Give me  
7           one second. Okay.

8                     So the reason I'm at this page is  
9           because -- well, maybe that's not the right page.  
10          There it is.

11                    Okay. This is where you kind of first  
12          make comments. So if you want to start maybe at the  
13          bottom of page, what is page 42 with Mr. Gallagher  
14          and just read to yourself. And let me know when to  
15          scroll. We're going to go through a couple of pages  
16          because I want to ask you about this meeting.

17          A     You can go up.

18                    Can you tell me who they're talking about  
19          in this?

20          Q     Well, yeah, sure. So you bring that point  
21          up here on line 19.

1           A     Okay.

2           Q     It's Woodstream Academy in Prince George's  
3 County.

4           A     Okay.

5           Q     Do you recall this discussion on  
6 Woodstream Academy?

7           A     I do.

8           Q     Okay. Can you tell me about that  
9 discussion in the Board meeting?

10          A     I asked -- I couldn't hear, and I wanted  
11 to know if it was the school in Prince George's  
12 County.

13          Q     Right. Okay. And then I'm on page 44,  
14 which is Bates 0204 of the transcript. And on line  
15 23, you state that I can tell you this about the  
16 school, that I'm very familiar with the school,  
17 they're a very conservative school, and behavior,  
18 whether it, going to the next page, was heterosexual  
19 or homosexual, will be grounds for expulsion. And  
20 then you say so I, too, don't think it has to do  
21 with the orientation. It is any act. I mean the

1 school is very, very conservative.

2 Did I read that correctly?

3 A You did.

4 Q Okay. Can you tell me what you were  
5 thinking there, what your thoughts were in your  
6 discussion?

7 A No, I can't tell you what my thoughts were  
8 back then.

9 I can tell you what I assume they might  
10 have been. That it was a very conservative school.

11 Q Okay. And is it fair to say that you were  
12 stating any sexual activity, whether homosexual or  
13 heterosexual, that that school would punish that  
14 activity?

15 MR. FINE: Objection to form.

16 A I can say what I read here, is that it was  
17 I think in the transcript it says I said it was that  
18 they were conservative and they will punish  
19 behavior. Yes. Heterosexual, homosexual behavior.

20 Q That's all. I just wanted to clarify what  
21 you were saying.

1 I'm going to scroll down a little bit  
2 further.

3 Do you recall whether the Board was going  
4 to make a decision on whether Woodstream could  
5 participate in BOOST at that meeting?

6 A I don't.

7 But I do want to make sure that it is  
8 clear that I don't want my comment about that it's  
9 conservative, I would have still, and I don't know  
10 if it's in the transcript, had the same opinion that  
11 there should be an affirmative statement.

12 Q You did or you did not have the same  
13 opinion?

14 A I'm saying I would have regardless.

15 I'm familiar with the school. And --

16 (Technical interruption.)

17 A If you want to take a five-minute break, I  
18 can go try to get the IT person and turn me into  
19 WiFi.

20 Q Well, why don't we give it another shot  
21 here. And if it happens again, maybe then.

1 A Okay.

2 Q So can you just restate what you said?

3 A I'm saying --

4 MR. FINE: I'm not sure what the last  
5 question was.

6 Could the last question be repeated,  
7 please?

8 Q Well, I think I've lost it at this point.

9 A I think I know. My comments in this  
10 transcript were for context, not in response to  
11 whether or not it should be affirmatively stated in  
12 the policy.

13 I need help. Can you all hold? The tech  
14 guy is here.

15 So I (inaudible) to my phone. They say I  
16 have little bandwidth. So I need to be on WiFi.

17 MR. REED: Let's go off the record.

18 THE VIDEOGRAPHER: Off the record at  
19 3:37 p.m.

20 (Recess taken.)

21 THE VIDEOGRAPHER: Back on the record,

1 3:41.

2 Q Okay. We're back. We were looking at the  
3 transcript from the May 3, 2018, BOOST Board  
4 meeting. So I'm going to pull that back up. Okay.  
5 Can you see that okay?

6 A Yes.

7 Q Okay. And for the record, this is  
8 Exhibit 38. And we're currently on page 0222 Bates  
9 stamp, which is page 62 of the transcript.

10 So Ms. Camp, if you would, can you read  
11 right kind of here on line three? Can you just read  
12 what you said here, this paragraph?

13 A I would prefer to ask the additional  
14 information on one and three, even though, and I do  
15 agree with you, that it's the answer and not the  
16 ability to change it. And that going forward, if  
17 they do not change it, then I guess they can  
18 reapply. But I would at least like to know that we  
19 are denying it based on, on the, who the person is,  
20 opposed to the behavior of the person. I guess even  
21 though I'm struggling, I know I'm being provoked

1 but...

2 Q Why were you being provoked?

3 A I don't think that was the word that was  
4 used.

5 I think the only thing, if I recall  
6 correctly, I knew the school. So I was struggling  
7 because I knew the school, if I recall.

8 So that doesn't make sense to me as being  
9 accurate transcription.

10 Q Okay. Why were you struggling with that  
11 school?

12 A Because I knew them and I didn't want to  
13 participate, if I recall correctly. I think.

14 Q Okay.

15 A I think here I say because I don't agree  
16 even with the policies they have.

17 Q And that's Woodstream Academy, correct?

18 A That's Woodstream, yes.

19 Q Okay. So right. And then you say you  
20 don't agree with the policies.

21 And then can you read Chairman Gallagher's



1 comments here starting on line 23?

2 A Marva, I know that you're relatively new  
3 to the Board and I would just -- just so you know,  
4 we've had unanimous votes on every single item that  
5 we've had over I suspect a year, over the last two  
6 years.

7 Q Right. So in your time on the BOOST  
8 Board, has all of the Board's decisions been by  
9 unanimous vote?

10 A I don't recall.

11 Q Have the majority of the Board's decisions  
12 been by unanimous vote?

13 A I don't recall.

14 I do want to go back. So the struggling  
15 was --

16 Q I didn't ask you.

17 A Oh, okay.

18 Q Go ahead.

19 A You asked --

20 Q You were struggling. Why were you  
21 struggling? Go ahead.

1 A Because I knew the school.

2 Q Okay.

3 A That was it.

4 Q And you didn't want to participate in that  
5 vote?

6 A I thought maybe I should recuse myself as  
7 it related to that, if I recall correctly.

8 Q Do you recall when a vote was held on  
9 Woodstream?

10 A I don't.

11 Q Let me ask this. Do you ever recall  
12 voting opposite of the Board's decision?

13 A I don't recall.

14 Q Okay.

15 A (Inaudible) to stay up. Sorry.

16 (Exhibit 36, Broadening Options and  
17 Opportunities for Students Today (BOOST)  
18 Advisory Board Meeting, June 21, 2018, Summary  
19 of Decisions, was previously marked for  
20 identification. Exhibit to be attached to the  
21 transcript.)

1           Q     All right. One second. I'm showing you,  
2           maybe, what has previously been marked Exhibit 36.  
3           This is Bates stamped Bethel Defendants 2333.001.

4                     Have you seen this document before?

5           A     I don't recall.

6           Q     Can you tell me what this document is from  
7           looking at it?

8           A     It says broadening options and opportunity  
9           for students today, Advisory Board Meeting, June 21,  
10          2018, summary of decisions.

11          Q     Were you at the June 21, 2018, BOOST Board  
12          meeting?

13          A     I don't recall.

14          Q     Okay. I'm going to scroll down here to  
15          section three. And again, this is related to the  
16          school's student handbook and nondiscrimination  
17          requirements.

18                     Can you read these two paragraphs under  
19          subsection C that I highlighted?

20          A     Yes. The Board unanimously decided that  
21          Broadfording Christian Academy is eligible.

1 Grace Academy Hagerstown had submitted a  
2 student handbook with revised admissions policies in  
3 May 2008 (sic.). And the Board unanimously decided  
4 that the new handbook complies with the  
5 nondiscrimination requirements and the school is  
6 eligible to participate in the next available  
7 window, to be determined administratively by MSDE.

8 The Board unanimously decided that Bethel  
9 Christian Academy, Savage, and Woodstream Christian  
10 Academy Mitchellville are not eligible.

11 Q Do you recall discussing these four  
12 schools with the BOOST Board?

13 A I don't recall.

14 Q Do you recall being a part of these  
15 decisions?

16 A I don't recall.

17 If it says --

18 MR. FINE: Objection. Form.

19 A -- then I would have been there and would  
20 have voted.

21 Q Do you recall how you voted?

1 MR. FINE: Objection. Form.

2 A If it says unanimously and I'm a part of  
3 the Board, then I would have voted affirmatively.

4 Q Okay. Thank you. Give me just one  
5 moment, if you will. I'm looking for a certain  
6 document.

7 Okay. I'm trying to pull up an exhibit,  
8 but I'm getting the it's loading. Okay. Finally.

9 (Exhibit 37, Transcript of BOOST Advisory  
10 Board Meeting June 21st, was previously marked  
11 for identification. Exhibit to be attached to  
12 the transcript.)

13 So I'm showing you what has been  
14 previously marked as Exhibit 37. This is Bates  
15 stamped 0249, which is Exhibit 14 to plaintiff's  
16 Motion for Preliminary Injunction.

17 And can you tell me what this document is?  
18 Can you read that?

19 A Transcript of BOOST Advisory Board, Matt  
20 Gallagher presiding, June 21st. Missing a year.

21 Q Right. Okay. I'll represent to you this

1 is June 21, 2018. Okay.

2 This is Bates 0274 of Exhibit 37, page 26  
3 of a transcript.

4 Ms. Camp, can you -- line 14 here, this  
5 says Ms. Camp.

6 That would be you, correct?

7 A As far as I know.

8 Q Okay. And you make the comment or the  
9 other people, right? I read that correctly?

10 A Yes.

11 Q So according to a transcript, you were  
12 present at the June 21, 2018, BOOST Board meeting?

13 A Okay.

14 Q Okay. And the summary of decisions, which  
15 I just showed you a document, stated that the BOOST  
16 Board decided on June 21, 2018, that Grace Academy  
17 and Broadfording Academy were granted  
18 reconsideration to participate in the BOOST program,  
19 correct?

20 A Yes.

21 Q And that same BOOST Board meeting of

1 June 21, 2018, Bethel Christian Academy and  
2 Woodstream Academy were denied participation in the  
3 BOOST program, correct?

4 A That's what the transcript indicates.

5 Q Right. And the summary of decisions  
6 stated that all four of those decisions were  
7 unanimous, correct?

8 A That's what the transcript states, yes.

9 Q Okay. All right. Just a couple more  
10 documents here.

11 Now, you testified earlier that you  
12 believed all BOOST participating schools should  
13 place affirmative language in their  
14 nondiscrimination policy, correct?

15 MR. FINE: Objection. Form.

16 A I believe it's appropriate for, in order  
17 to ensure the highest transparency and consistency  
18 across all schools, to put language that speaks to  
19 race, gender, and sexual orientation. I guess the  
20 other was ethnicity.

21 Q Sure. And we looked at Bethel's handbook.

1                   And you stated that had they placed sexual  
2 orientation in their nondiscrimination policy, you  
3 would have thought that sufficient?

4                   A     I did not say --

5                   MR. FINE:  Objection.  Form.

6                   A     I said that it was missing from theirs.

7                   Q     Right.  But had they placed sexual  
8 orientation --

9                   A     I didn't speak to that because I think I  
10 mentioned to you if there might be some other way  
11 that they could do it.  But what they gave us, did  
12 not seem to meet the parameters of showing that  
13 transparency and universality.

14                             (Exhibit 69, Broadfording Christian  
15 Academy Student-Family Handbook 2017-2018, was  
16 marked for identification.  Exhibit to be  
17 attached to the transcript.)

18                   Q     All right.  I'm showing you what has been  
19 marked Exhibit 69.  This is Bates stamped school  
20 handbooks 0235.001.

21                   A     Okay.



1 Q Have you ever seen this document before?

2 A I don't see anything on here. I just see  
3 your pictures. I don't see -- oh, there it is.

4 I don't recall. I don't recall.

5 Q Okay. So this is Broadfording Christian  
6 Academy's handbook.

7 And that was one of the schools that the  
8 BOOST Board made a decision on on June 21, 2018?

9 A That's what the transcript says, yes.

10 Q Right, okay. And what was the BOOST  
11 Board's decision with respect to Broadfording?

12 A If you would show me it in the transcript,  
13 I'll be able to repeat it for you.

14 MR. FINE: Ms. Camp, do we need to take a  
15 quick break? It looks like --

16 THE WITNESS: Yeah. I'm having a little  
17 issue. Yeah. If you could give me a second.

18 MR. FINE: Just go off the record maybe  
19 for a few minutes.

20 MR. REED: Yup.

21 THE VIDEOGRAPHER: Off the video record at

1 3:57 p.m.

2 (Recess taken.)

3 THE VIDEOGRAPHER: Back on the record,  
4 four o'clock p.m.

5 Q Okay. Ms. Camp, you doing okay hopefully?

6 A Yes. Someone left coffee on the table and  
7 it spilled.

8 Q It happens to me way too often.

9 So when we left off, we were talking about  
10 the June 21, 2018, BOOST Board meeting. And there  
11 were four schools up for consideration. One of them  
12 being Broadfording Christian Academy.

13 So I'll share my screen here.

14 A Okay.

15 Q And this is their handbook.

16 Now, you recall this is Exhibit 36 I just  
17 pulled up.

18 This is the summary of decisions from that  
19 date, correct?

20 A That's what it indicates.

21 Q Right. And again, just for the record and

1 to be clear, it states here that the Board  
2 unanimately decided that Broadfording Christian  
3 Academy is eligible.

4 And that is to participate in BOOST,  
5 correct?

6 A That's what it indicates.

7 Q Now, back to Exhibit 69. I'm going to  
8 pull up Broadfording Christian Academy's  
9 nondiscrimination policy.

10 Can you read that, please?

11 A Can you make it bigger? I absolutely  
12 cannot do it.

13 Q Is that better?

14 A Let's see. I'm going to have to move it.  
15 Okay.

16 Broadfording Christian Academy admits  
17 students of any race, color, national and ethnic  
18 origin to all the rights, privileges, programs, and  
19 activities generally accorded or made available to  
20 students of the school. It does not discriminate on  
21 the basis of race, color, national and ethnic

1 origin, and administration of its educational  
2 policies, admission policies, tuition assistance  
3 programs, athletic and other school-administered  
4 programs, nor in the hiring of faculty or  
5 administrative staff.

6 Q So Broadfording's nondiscrimination policy  
7 does not contain sexual orientation, along with  
8 race, color, national or ethnic origin, correct?

9 A Correct.

10 MR. FINE: Objection. Form.

11 Q Okay.

12 A I said correct.

13 Q Okay, yup. But Broadfording was deemed  
14 eligible to participate in BOOST on June 21, 2018,  
15 correct?

16 A Correct.

17 Q And you were at that Board meeting,  
18 correct?

19 A Correct.

20 Q And the vote was unanimous, correct?

21 A It says so. Yes.

1 Q So that means you would have voted to  
2 allow Broadfording to participate in BOOST?

3 A So what I want to say is that what I don't  
4 have the benefit of, as I did with the other one,  
5 reading the full handbook here. And maybe I did  
6 then.

7 I do recall that AG's opinion was to ask  
8 for additional information from those schools that  
9 did not on their face provide information as it  
10 relates to nondiscrimination.

11 I do recall that there was additional  
12 language in the Bethel that talked about marital or  
13 nonmarital, something.

14 So in the absence of being able to read  
15 this full book, to tell you what my thinking was  
16 based on that, I'm unable to do so today.

17 Q So what else was problematic with Bethel's  
18 handbook?

19 A I didn't say problematic. But I am saying  
20 that in the other one, there was a nondiscrimination  
21 policy that you showed me. There was another that

1 talked something about behavior, and I don't have it  
2 in front of me, that added additional context for my  
3 decision-making, which is not available to me here  
4 to look at the entire book.

5 So since I'm depending on the transcript  
6 and not my whole memory from there, I would need to  
7 see the entire book and read it.

8 Q So I pulled up Bethel's handbook, which we  
9 previously looked at, marked Exhibit 2. Bates 0002  
10 to Exhibit 1, plaintiff's Motion for Preliminary  
11 Injunction.

12 We'll go back to their admissions policy,  
13 which is on page Bates 008.

14 Can you read the highlighted sentence,  
15 please?

16 A It should be noted, however, that the  
17 Bethel Christian Academy supports the Biblical view  
18 of marriage defined as a covenant between one man  
19 and one woman and that God immutably bestows gender  
20 upon each person at birth as female or -- male or  
21 female to reflect his image.

1           Q     So this statement, was this statement  
2     problematic in your opinion?

3           MR. FINE:  Objection.  Form.

4           A     I can't speak to that.

5                     I can only say that when I suspect,  
6     knowing me, I would have looked at everything in the  
7     totality of the circumstances in front of me.

8           Q     So did it make a difference that Bethel's  
9     handbook contained this statement but Broadfording's  
10    did not?

11          MR. FINE:  Objection.  Form.

12          A     I don't know.

13                     I can only say that I would have looked at  
14    all -- if they said -- if it fit in category three,  
15    that we should ask for additional information.  And  
16    depending on what that additional information, it  
17    may have made a difference at the time.  And not  
18    this statement, but the totality of the handbooks of  
19    both groups.

20          Q     And Bethel provided additional  
21    information, correct?

1 A I assume they did. I don't know.

2 (Exhibit 16, Letter to Ms. Kearns and  
3 BOOST Advisory Board from Claire Dant Dated  
4 5/29/18, was marked for identification.  
5 Exhibit to be attached to the transcript.)

6 Q So I'm showing you what has been  
7 previously marked Exhibit 16. This is Bates 0074,  
8 Exhibit 5 to plaintiff's Motion for Preliminary  
9 Injunction.

10 Do you recognize this document?

11 A I don't.

12 Q Have you ever seen this document before?

13 A I'm not sure.

14 Q Do you know what this document is?

15 A It says it's a letter from Bethel  
16 Christian Academy to Ms. Kearns and the BOOST  
17 Advisory Board.

18 Q Can you read line one here?

19 A Does your school discriminate in student  
20 admissions on the basis of sexual orientation?

21 Q And that was a question posed to Bethel;



1 is that your understanding?

2 A It's not my understanding. I'm reading it  
3 here.

4 Q Well, I'll represent to you that it was a  
5 question posed to Bethel by the Maryland State  
6 Department of Education. Thank you.

7 Can you read Bethel's response that I  
8 highlighted?

9 A BCA believes that its admissions policies  
10 and practice are consistent with its assurances and  
11 there is no incompatibility between BCA's  
12 admissions -- I'm reading off a phone, so. And  
13 assurance it executed to participate in the BOOST  
14 program. From its inception in 1985, academic  
15 standards, Bethel Academy has had an open enrollment  
16 policy. Any student who can meet our academic  
17 standards and is likely to thrive in our structured  
18 environment is welcome to join our school regardless  
19 of religious beliefs, experience of same sex,  
20 attraction, sexual self identification, past  
21 participation in same sex behavior, beliefs about

1 marriage, or beliefs about sexual morality.

2 Q So you don't know if you read this  
3 response prior to the June 21, 2018, Board meeting?

4 MR. FINE: Objection. Asked and answered.

5 Q You can answer.

6 A I don't remember.

7 Q Okay. Had you read this prior to the  
8 June 21, 2018, BOOST Board meeting, would you have  
9 voted to allow Bethel into the BOOST program?

10 MR. FINE: Objection. Form.

11 A Can't tell you what I would have done.

12 Q Why not?

13 A Don't know what I would have done back  
14 then.

15 Q Well, as of right now today, let's say the  
16 law is the same. Okay. Bethel responds and you see  
17 this.

18 A Okay.

19 Q What would your vote be?

20 A So I will tell you my personal opinion. I  
21 think it is a cleaner thing to require it to be

1 specifically stated in a document of a  
2 nondiscrimination policy with respect to race,  
3 gender, sexual orientation, or ethnicity.

4 I commend the Board for trying to make  
5 every effort to extend, to extend to any school the  
6 opportunity to respond.

7 I do not know what the conversation or  
8 cannot recall what the conversation is, but I  
9 believe, and knowing what I believe to know, that  
10 this Board would have been thoughtful in that  
11 consideration, and through that deliberation made a  
12 determination that it was not enough to be universal  
13 and transparent as it related to the issue of sexual  
14 orientation.

15 And to read this in isolation makes it  
16 very hard because I don't have the benefit of the  
17 full discussion of the answers or this document.

18 Q So putting aside what would be cleaner and  
19 not cleaner as you stated, this response in itself  
20 would not be sufficient for you to vote to allow  
21 Bethel into the BOOST program?

1           A     I will need to have the opportunity to  
2     review all of the discussion, the back and forth,  
3     and this letter, and everything else that was  
4     discussed that day to be able to tell you that  
5     today.

6           Q     Putting everything else aside, the law as  
7     it stands that states BOOST participating schools  
8     cannot discriminate in admissions based on sexual  
9     orientation, this response would not be sufficient  
10    for you to vote to allow them into the BOOST  
11    program?

12                   MR. FINE:  Objection.  Asked and answered.

13           A     In the absence of the full documents  
14    regarding all the schools that were deliberated that  
15    day and the full discussion that we had, I'm not in  
16    a position today to answer that question.

17                   Excuse me.

18           Q     Okay.  Let's go back to the June 21st  
19    BOOST Board meeting.

20                   Grace Academy was a school that was up for  
21    discussion, correct?

1 A If that's what the transcript says.

2 (Exhibit 41, Letter to Monica Kearns from  
3 Warren Barrett Dated 6/4/18, was previously  
4 marked for identification. Exhibit to be  
5 attached to the transcript.)

6 Q So I'm showing you what has been marked  
7 Exhibit 41, Bethel Defendants, Bates stamped Bethel  
8 Defendants 515-02.

9 A Okay.

10 Q Have you seen this document before?

11 A I don't recall.

12 Q Go ahead and take a look at it for a  
13 moment and let me know when you're done.

14 A If you could move it up, please. Okay.  
15 Okay.

16 Q Second page.

17 A Okay.

18 Q Okay. So just to be clear, not to be  
19 redundant, but you don't recall receiving this or  
20 reviewing it prior to the June 21st Board meeting?

21 A I don't recall.

1 Q Okay. So Grace Academy revised their  
2 handbook language. And this is their admissions  
3 policy, which they attached to the letter.

4 Take a look at that, if you will.

5 A Okay.

6 Q Okay. So now I want to take you to -- I  
7 stopped sharing; didn't I?

8 A You did.

9 Q Sorry. Okay. So this is Exhibit 36,  
10 summary of decisions from the June 21, 2018, BOOST  
11 Board meeting.

12 Can you read that highlighted portion?

13 A Grace Academy Hagerstown has submitted a  
14 student handbook with revised admission policies in  
15 May 2018, and the Board unanimously decided that the  
16 new handbook complies with the nondiscrimination  
17 requirements and the school is eligible to  
18 participate in the next available window, to be  
19 determined administratively by MSDE.

20 Q So according to the summary of decisions,  
21 you would have voted as well as everyone else on the

1 BOOST Board, to allow Grace Academy to participate  
2 in the BOOST program?

3 MR. FINE: Objection. Form.

4 A Based upon the transcript, that is  
5 correct.

6 Q Do you recall that vote?

7 A I do not.

8 Q Okay. Now I'm taking you back to  
9 Exhibit 41, and we are on what is Bates stamped  
10 Bethel Defendants 515-04.

11 Does Grace Academy, does their admission  
12 policy have an affirmative nondiscrimination based  
13 on sexual orientation provision?

14 MR. FINE: Objection. Form.

15 A It does not. It does not appear to based  
16 on what you're showing me.

17 Q Sure. Yet you voted to allow them back in  
18 the BOOST program?

19 A Yes.

20 Q Okay. Now, at the June 21, 2018, Board  
21 meeting, BOOST voted to allow Broadfording and Grace

1 Academy back into the program, correct?

2 A If that's stated in the transcript,  
3 correct.

4 Q Okay. Did the BOOST Board, whether it be  
5 you or the Board collectively, do any investigations  
6 as to whether those two schools were actually  
7 complying with the nondiscrimination in admissions  
8 policy?

9 MR. FINE: Objection. Form.

10 A I cannot answer that. I do not know.

11 Q Did you personally do any investigation  
12 into whether these schools were discriminating?

13 A I need clarity as what you mean by  
14 investigation.

15 Q Did you have any evidence that either  
16 Grace Academy or Broadfording Academy were  
17 discriminating in admissions based on sexual  
18 orientation?

19 MR. FINE: Objection. Form.

20 A What kind of evidence?

21 MR. FINE: Go ahead.



1           A     I don't understand really the question.  
2           So I can't answer.

3           Q     Did anyone bring any allegations to you  
4           that Grace Academy or Broadfording Academy were  
5           discriminating in their admissions?

6           A     To my knowledge, no one brought to me  
7           personally any allegations.

8           Q     Did anyone bring any allegations that  
9           Bethel Academy was discriminating in their  
10          admissions policy based on sexual orientation?

11          A     So let me go back. As it relates to any,  
12          I don't recall whether any -- I don't know what time  
13          frame you're speaking of. So I really can't answer  
14          those questions.

15                    So we can strike my first one.

16                    I just don't know what the -- I'm unclear  
17          as to the question.

18          Q     So let's bring it back.

19          A     Okay.

20          Q     The budget bill that created BOOST states  
21          schools cannot discriminate in admissions based on

1 sexual orientation, among other categories?

2 A Are you asking me?

3 Q Yes. Correct, was that the law?

4 A As I understand it, yes.

5 Q From December of 2017 when you were  
6 appointed until June of 2018, did you have any  
7 evidence that Bethel Christian Academy was in  
8 actuality discriminating in their admissions  
9 practices based on sexual orientation?

10 A So I think, so that I can do it based on  
11 knowledge, I do not recall.

12 Q Do you recall any schools that  
13 participated in the BOOST program, any evidence that  
14 those schools were discriminating in admissions  
15 based on sexual orientation?

16 A I do not recall.

17 Q Okay. During your time, we'll use  
18 December of 2017 when you were appointed, through,  
19 we'll just make it a year, so through December of  
20 2018, did you have any communications with Monica  
21 Kearns within the Maryland State Department of

1 Education?

2 A Can you define communications, please?

3 Q E-mails, conversations, text messages,  
4 cell phone calls, telephone calls.

5 A I don't recall, but I am going to, based  
6 on practices, make the assumption that we -- that I  
7 may have gotten e-mails from Ms. Kearns, but I don't  
8 independently know that unless I look. But I'm  
9 going to assume that I at least got e-mails from her  
10 to the full Board.

11 Q I think, and correct me if I'm wrong, but  
12 when we first started, you mentioned you had worked  
13 or volunteered for some nonprofit organizations?

14 A Maryland Citizens for the Arts, yes.

15 Q Is there any other organizations?

16 A Well, I volunteer for a lot of  
17 organizations, yes.

18 I serve on a number of Boards, rather.

19 Q Can you name them, the ones you serve on?

20 A Leadership Prince George's, Prince  
21 George's Economic Development Corporation, Maryland

1 Citizens for the Arts, Board of Property Review,  
2 Maryland Black Chamber of Commerce. Those come to  
3 mind most immediately.

4 Q Okay. Did you ever volunteer for the  
5 ACLU?

6 A Have not.

7 Q Using the time frame December of 2017  
8 through December of 2018, did you have any  
9 communications with anyone from the ACLU?

10 A To my knowledge, no.

11 Q What about any communications with anyone  
12 from the governor's office?

13 A I don't -- I can't tell you what I --  
14 don't know. I do not recall.

15 Q Any other politicians as it pertains to  
16 the BOOST program and the review of handbooks?

17 A My initial answer would be no. But I  
18 don't recall. But if I'm thinking about it, I don't  
19 think I've ever had conversations outside of the  
20 Board discussions on BOOST. But I don't recall.

21 Q Okay. Let me just make sure there's

1 nothing else I want to pull up here.

2 Okay. Just a few more questions.

3 What did you do to prepare for this  
4 deposition?

5 A What did I do? I looked at one document  
6 that -- I think the AG document. I looked at the AG  
7 document that gave the three options.

8 Q Is that the January memo that I pulled up  
9 earlier?

10 A It looks familiar. So I think the one  
11 that had one, two, and three, the different  
12 scenarios.

13 And I believe, and I can't remember, I  
14 think I looked at one meeting summary. So a meeting  
15 summary.

16 Q You don't recall which meeting?

17 A I don't.

18 Q Do you recall receiving any other memos or  
19 guidance from the Office of the Attorney General?

20 MR. FINE: Objection.

21 A I'm not prepared to answer that.

1 Q Well, you can. I'm not asking what they  
2 said?

3 MR. FINE: Counselor, you're pushing up  
4 against the attorney-client privilege here. So  
5 I --

6 MR. REED: I'm not asking what the  
7 documents say.

8 I'm just simply asking if she had received  
9 any other ones.

10 A I'm not prepared to answer.

11 Q Did you speak with Chairman Gallagher to  
12 prepare for this deposition?

13 A I did not.

14 Q And just to be clear, were you refusing to  
15 answer my last question?

16 A I believe it falls within attorney-client  
17 privilege and I'm not prepared to answer.

18 Q You won't answer whether you received  
19 other documents, not what they say?

20 A I believe --

21 MR. FINE: Objection. Form.

1                   You can answer.

2                   A     And I'm not prepared to answer.

3                   Q     So you're refusing to answer?

4                   MR. FINE:   I'm instructing -- I'm sorry.  
5                   Marva Jo, please go ahead.

6                   MR. REED:   I just want it to be clear for  
7                   the record.

8                   A     That's what I'm trying to do.

9                   Q     So you're refusing to answer?

10                  A     No.   To misstate my comment.

11                  And for the record, I believe that it  
12                  falls within attorney-client privilege.  And  
13                  therefore, I am not today prepared to answer because  
14                  I believe it falls within attorney-client privilege,  
15                  for the record.

16                  MR. REED:   I think that's all I have.

17                  THE WITNESS:  Thank you very much.

18                  MR. FINE:   And I have no questions.

19                  MR. REED:   I thank you for your time here.

20                  MR. FINE:   We'll read and sign.  The  
21                  witness will read and sign.

1 THE VIDEOGRAPHER: Okay. And I'll get us  
2 off the video.

3 This concludes today's video recorded  
4 deposition.

5 We're off the video record at 4:30 p.m.

6 (Time Ended: 4:30 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.

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MARVA JO CAMP

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, Marva Jo Camp, 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

[&amp; - absolutely]

Page 1

|                                      |   |  |   |
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| <b>&amp; 1:19</b>                    | <b>1985</b> 84:14                               | <b>23</b> 62:15 68:1                   | <b>480</b> 2:6                              |
| <b>0</b>                             | <b>1986</b> 10:10                               | <b>2333.001.</b> 70:3                  | <b>49</b> 3:13                              |
| <b>0002</b> 81:9                     | <b>1:19</b> 1:6 5:15                            | <b>243</b> 19:5                        | <b>4:30</b> 99:5,6                          |
| <b>002</b> 55:2                      | <b>2</b>  | <b>26</b> 73:2                         | <b>5</b>                                    |
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| <b>0074</b> 83:7                     | <b>2000</b> 11:4,6                              | <b>3</b>                               | <b>51-001</b> 48:4                          |
| <b>008</b> 81:13                     | <b>20001</b> 2:6                                | <b>3</b> 49:21 59:18 61:5<br>66:3      | <b>515-02</b> 88:8                          |
| <b>0161</b> 60:17                    | <b>2008</b> 71:3                                | <b>3/13/18</b> 3:13 49:14              | <b>515-04</b> 90:10                         |
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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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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.

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# **EXHIBIT 40**



**Karen B. Salmon, Ph.D.**  
State Superintendent of Schools

May 25, 2018

Clair Dant, Principal  
Bethel Christian Academy  
8455 Savage-Guilford Rd.  
Savage, MD 20763

Dear Ms. Dant,

I am writing to follow-up on the March 13, 2018 statement that Bethel Christian Academy provided to the BOOST Advisory Board that explains how your school's student handbook reconciles with the assurance the school signed regarding non-discrimination in admissions. As you know, the assurance addresses the legal requirement that a school that accepts BOOST scholarships "will not discriminate in student admissions on the basis of ... sexual orientation."

The March 13, 2018 statement did not fully answer the questions that the BOOST Advisory Board has about Bethel Christian Academy's compliance with the BOOST law. The law prohibits discrimination in student admissions but it can be argued that it is problematic if a school admits a student and then summarily expels the student based on sexual orientation. Therefore, the BOOST Advisory Board is asking for a statement from your school that addresses the following questions:

- 1) *Does your school discriminate in student admissions on the basis of sexual orientation?*
- 2) *If your school was to discover that one of its students was in violation of the school's religious or moral teachings concerning sexual orientation, what would the school do to address it?*

Please provide a written response by June 6, 2018. The response can be emailed to me at [monica.kearns@maryland.gov](mailto:monica.kearns@maryland.gov). If you have questions, you can reach me by email or by phone at (410) 767-8863. Thank you for your cooperation.

Sincerely,

Monica Kearns  
Assistant State Superintendent for Business Services



# **EXHIBIT 41**




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## bethel christian academy

May 29, 2018

Dear Ms. Kearns and the BOOST Advisory Board:

Following is Bethel Christian Academy's response to the additional questions posed by the BOOST Advisory Board via the letter dated May 25, 2018.

In the second paragraph of your letter is the statement that "***The law prohibits discrimination in student admissions but it can be argued that it is problematic if a school admits a student and then summarily expels the student based on sexual orientation.***" I would first like to assert that this is not what BCA does.

**1) Does your school discriminate in student admissions on the basis of sexual orientation?**

As stated in my March 13 letter, "BCA believes that its admissions policies and practices are consistent with its assurance" and "there is no incompatibility between BCA's admissions policies and the assurance it executed to participate in the BOOST program." From its inception in 1985, Bethel Christian Academy has had an "open enrollment" policy. Any student who can meet our academic standards and is likely to thrive in our structured environment is welcome to join our school community regardless of religious beliefs, experience of same-sex attraction, sexual self-identification, past participation in same-sex behavior, beliefs about marriage, or beliefs about sexual morality.

**2) If your school was to discover that one of its students was in violation of the school's religious or moral teachings concerning sexual orientation, what would the school do to address it?**

Since Bethel Christian Academy has a policy of "open enrollment", there is no requirement that families or students who apply or attend the school must *agree* with the school's Statement of Faith or specific beliefs. They are simply asked to *acknowledge* that the school has such a statement and that the school's core values include teaching from a biblical worldview.

My March 13 letter stated that an admitted student "is expected to comply with behavioral expectations and is subject to disciplinary action for violation of those behavioral standards, including engaging in sexual behavior of any type, whether heterosexual or homosexual." The school behavioral standards address student actions. A student's *private beliefs* about sexual morality and marriage would not be in violation of BCA's student conduct policy although they may be different from BCA's religious or moral teachings about sexual morality.

When 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 biblically-mandated approach is what guides BCA.

Along with this letter, BCA is submitting a written statement that was emailed just prior to the May Advisory Board meeting and a statement from a BCA parent who has benefited from the BOOST Scholarship.

Sincerely,

Claire M. Dant

# **EXHIBIT 42**



**Karen B. Salmon, Ph.D.**  
State Superintendent of Schools

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**Broadening Options and Opportunities for Students Today (BOOST)  
Advisory Board Meeting – June 21, 2018  
Summary of Decisions**

- 1) Presentation on special education:
  - a. To inform the BOOST Board’s deliberations on higher award amounts for special education students, a presentation was given by Marcella Franczkowski, MSDE’s Assistant Superintendent for the Division of Early Intervention and Special Education, and her staff. The presentation included information on special education services for students and funding for public and nonpublic schools.
  
- 2) Applications for 2018-2019:
  - a. The Board asked staff from the Maryland State Department of Education (MSDE) to provide additional information on 2018-2019 application data at the next meeting to support their decision-making on award amounts by category. Specifically, the Board asked for scenarios that show the aggregate cost of possible award amount increases. It was noted that, per the BOOST law for 2018-2019, at least \$600,000 of the funds must be used for higher award amounts for special education students.
  - b. The Board agreed that, moving forward, it may need to consider whether there are schools with a specific tuition rate for special education students, and whether this tuition rate would need to be separated from the general program tuition rate as far as the school’s qualification for the Nonpublic Textbook Program. To qualify for the Textbook Program, a school’s tuition rate must be equal to or less than the statewide average per pupil expenditure by Local Education Agencies from the second prior fiscal year.
  - c. The Board Chair identified the need to discuss at another time the fact that there were fewer applications received for 2018-2019 than for 2017-2018.
  
- 3) Schools’ student handbooks and the non-discrimination requirements:
  - a. The BOOST law includes non-discrimination requirements related to student admissions for participating schools. Several schools have been found to be ineligible for the program based on language in their student handbooks that was deemed discriminatory.

BOOST Advisory Board

Summary of Decisions from the June 21, 2018 Meeting

Page 2

Prior to its June 21, 2018 meeting, the Board received requests for reconsideration from two schools that had been deemed ineligible: Broadfording Christian Academy-Hagerstown and Grace Academy-Hagerstown.

Also, as of June 21, 2018, there were two schools still under review as far as compliance with the non-discrimination requirements: Bethel Christian Academy-Savage and Woodstream Christian Academy-Mitchellville.

- b. The BOOST Board went into closed session at approximately 3:25 pm to receive legal advice on the non-discrimination requirements of the BOOST law.
- c. The BOOST Board came back into open session at 3:55 pm, and the Board made these decisions:

The Board unanimously decided that Broadfording Christian Academy is eligible. Grace Academy-Hagerstown had submitted a student handbook with revised admissions policies in May 2018, and the Board unanimously decided that the new handbook complies with the non-discrimination requirements and the school is eligible to participate in the next available window, to be determined administratively by MSDE.

The Board unanimously decided that Bethel Christian Academy-Savage and Woodstream Christian Academy-Mitchellville are not eligible.

###

Revised September 2018 for consideration at the October 2018 BOOST Board meeting.

# **EXHIBIT 43**

Transcript of BOOST Advisory Board

Matt Gallagher, presiding

June 21

Transcript Prepared Exclusively for  
Alliance Defending Freedom by  
Malloy Transcription Service

[Transcript prepared from a provided audio recording.]

**Exhibit**  
37

1

## P R O C E E D I N G S

2

MR. GALLAGHER: Welcome to the meeting of the BOOST  
3 Advisory Board.

4

5

Agenda item No. 1, consideration of the June 4  
meeting summary. Did any of the members have any thoughts,  
6 questions, or concerns about the meeting summary?

7

ATTENDEE: No.

8

MR. GALLAGHER: Can I get a motion to approve the  
9 meeting summary?

10

ATTENDEE: So moved.

11

MR. GALLAGHER: Second?

12

ATTENDEE: Second.

13

MR. GALLAGHER: All in favor? Aye.

14

[Chorus of ayes.]

15

MR. GALLAGHER: Okay. So approved, and if any of  
16 the members not present can come back later on, we can amend  
17 as necessary.

18

I think the--and this is a somewhat time sensitive  
19 issue in terms of like the availability of the special ed  
20 personnel.

21

MS. KEARNS: Yes.

22

MR. GALLAGHER: We decided to put that at the front  
23 of the meeting.

24

MS. KEARNS: Yes.

25

MR. GALLAGHER: So, Monica, if you want to introduce



1 whoever we need to introduce, that would be great.

2 MS. KEARNS: Sure. Let me introduce, please,  
3 Franczkowski--Marcella--and Dori Wilson, and Marcella is lead  
4 of the Special Education/Early Intervention Services Division  
5 at MSDE. So she is the absolute--the absolute top of the  
6 in-house expertise on this subject. So we have the best  
7 person in the building and maybe the State for you here today,  
8 except for maybe Dr. Grasmick--

9 [Laughter.]

10 MS. KEARNS: And Dori is important in the Division,  
11 so they are here with us today to kind of dive into some of  
12 the nuances here and some of the information that you all have  
13 asked for, and we do have a handout for you. And so I  
14 don't--unfortunately, for the members on the phone, I will  
15 have to get this handout to you after the meeting today, but I  
16 will get that to you.

17 And so, with that, I will turn it over to Marcella.

18 MS. FRANCKOWSKI: Thank you, Monica. Thank you for  
19 your flexibility for having us, and there are three of us here  
20 today. We also have Dan Martz. Dan Martz is a director. He  
21 is now with our branch but was a director of special education  
22 in Frederick County for 6 years. So he brings a hands-on,  
23 truly the rubber meeting the road at a local level. Dori is  
24 going to support any legal, and then I am going to tell the  
25 story.

1           So, hopefully, what we bring today will really help  
2 in some of the decision-making that you have around how we're  
3 going to support fiscally as well as programmatically our  
4 students with disabilities.

5           I can't begin without thanking the lens on this that  
6 we are providing equitable opportunities for students with  
7 disabilities through this program, so thank you for that  
8 vision and that work to include all students, including  
9 students with disability, so very excited about that.

10           So what we're trying to do today is to bring  
11 information about what funding is for students with  
12 disabilities, what is available through federal funding for  
13 non-public schools, and there's two arms of non-public  
14 schools.

15           The left arm that you see in front of you around  
16 publicly placed, that is our non-public special education  
17 schools. That is probably not the lens or information that  
18 will help in some of this decision-making for this.

19           So I just want to quickly share with you the one  
20 lens that we use federal funds for are for students with  
21 disabilities, where they are publicly placed through the  
22 formal and legal Individualized Education Program team.

23           So these are students that receive services in  
24 non-public special education schools, and they are placed by  
25 IEP teams.

1           What is the driver for this is the Individualized  
2 Education Program, which is referenced as an IEP, so you  
3 become eligible for those services at the local level, and  
4 then a recommendation of the IEP team to write, draft,  
5 implement, and evaluate an IEP program.

6           The services unique to this population on your left  
7 side of your chart are truly about those services that are  
8 entitlements. They are services driven by what services are  
9 going to implement a free appropriate public education, and  
10 you may often hear that reference of fate.

11           Also, there is a funding formula around this for our  
12 non-public, and there's two pieces of that formula. One is a  
13 methodology, but, of course, legislation would override that  
14 methodology in place if the legislation would say a freeze or  
15 put a percentage on it. But there is a methodology placed,  
16 and that funding for the non-public special education schools  
17 for students with disabilities is a state and local share. So  
18 state funds support that, and then a match or close to a  
19 percentage local matches.

20           So that left side is very different than the  
21 conversations that we're having here today about students with  
22 disabilities and the BOOST program, but I wanted to take that  
23 off so there's no confusion about this being non-public  
24 special education and publicly placed.

25           So more mirroring the conversations that you all are

1 having around BOOST would be those students that are  
2 parentally placed. So this isn't coming through the IEP team.  
3 This is coming through a parent choice. Parent places their  
4 student, and where are they placing them? In a non-public  
5 school. It could be a private school. It could be a  
6 religious school. It is similar to the conversations that  
7 we're having around the BOOST.

8           So when a parent chooses to place their students in  
9 a religious or a private school, they receive an  
10 individualized service plan, and it's called an ISP. And you  
11 will see this, and all of this information is driven by law,  
12 as you see the citations. And I want to thank Mr. Alan  
13 Dunklow for supporting us in the citations.

14           So, as we look at that, what's differences about a  
15 the services here? We must provide equitable services for the  
16 student who has been identified eligible for special education  
17 or services, and it's determined by a local school system's  
18 annual agreement. So it's not the IEP team process. It is  
19 through an annual agreement where the private sector and local  
20 school systems meet annually, have conversations of what the  
21 needs are around students. It is really supporting Child  
22 Find. A major role for all of us is to find, to locate  
23 students with disabilities wherever they are in the state of  
24 Maryland.

25           So this allows us, even if a parent chooses to place

1 their child who has disabilities, in a religious or private  
2 school, that we are locating that student and providing  
3 equitable services for them in that arena.

4 Funding for that is dictated, again, by federal law,  
5 an IDA, and there is a proportionate share, amount for--based  
6 upon the services delivered and the number of children served,  
7 and I'm going to share with you more details about this. But  
8 I just wanted to put this conversation out there first.

9 Many of our local school systems, the proportionate  
10 share is dictated by a formula, but please know that most  
11 local school systems add to that through local funds or use  
12 the other kinds of funds that we give federal passthrough  
13 funds. They pass through here to supplement the delivery of  
14 these equitable services.

15 So let's unpack this a little bit. First, how do we  
16 know the proportionate share--how does this procedure occur?  
17 First, every local school system submits to the state  
18 department an application every year to support the needs of  
19 students with disabilities. As part of that application  
20 process, a document comes in and shares about those parentally  
21 placed students, and there's a process that each school  
22 system--and it is required by law, related to parentally  
23 placed private school students.

24 First, they must conduct and hold and complete all  
25 Child Find activities, so that's the number one and how is

1 that local school system doing that, and they share with us  
2 through their grant.

3 Next, they must actually have a consultation meeting  
4 with private schools, religious schools, conversations to what  
5 the needs are, what children are they finding, what are the  
6 services that will be needed to support our students.

7 Next, they collect data regarding the number of  
8 children referred, evaluated, and determined eligible. So  
9 this is helping that decision-making of what services are  
10 going to be provided.

11 And, next, they develop a service plan for each  
12 parentally placed private school student with a disability,  
13 and then they must expend the proportionate share. And I'm  
14 going to talk to you a little bit about that in the second  
15 chart. So there is no choice. Each local school system, the  
16 amount in that proportionate share, they must expend that, and  
17 then, as I said, they add additional.

18 And then there is also complaint procedures related  
19 to that.

20 So what conversation, then, about services? Can we  
21 give with the amount of proportionate share? Would all  
22 services be able to be provided to our students?

23 ATTENDEE: No.

24 MS. FRANCKOWSKI: No. So that is the reason for  
25 this annual conversation and review of data with private

1 partners and with the local school system to determine and  
2 select the services that will be provided through this  
3 proportionate share amount.

4           So, as we look at the second sheet, here is an  
5 example of 2018. So let me--this talks a little bit about  
6 your funding question. As you see on your left, you see all  
7 local school systems listed, and then there's two types of  
8 proportionate share. And I don't want this to cloud the  
9 understanding, so I'm just going to very briefly--you'll see a  
10 yellow column. That's the proportionate--the parentally  
11 placed private school students, proportionate share for the  
12 ages of 3 to 5, and then you will see the blue box. And that  
13 is for our ages 3 through 21.

14           So our local school systems actually have two pots  
15 of parentally placed numbers and data that impact the  
16 proportionate share, so one is in the 3 to 5 funding. For  
17 those of you who are familiar, that's 619 funding. And then  
18 it's the 3 to 21, which is our 611 funding.

19           So students are found eligible, and you will see by  
20 Eligibility 2 and 3, those definitions are at the bottom of  
21 your chart. Both of them require that the student is eligible  
22 for a service plan, so that's the first.

23           And the second, we include for Eligibility 2, those  
24 parents, because remember a parent consents to these services.  
25 A parent does not have to consent. And then we would not

1 deliver, but Eligibility 3 also counts those students because  
2 parents may decline. The student is still eligible, but the  
3 parent may decline.

4 SO you will see, for example, in Baltimore City, we  
5 have--for the age of 3 to 5, we have about 13 students there  
6 in 2018 that were deemed eligible for 2 and 3. So they were  
7 deemed eligible for a family service plan, and either parent  
8 refused or the parent consented, right?

9 The expenditure for that, looking at the  
10 proportionate share, the minimum expenditure--and please know  
11 almost all your locals, this is the bare minimum. They add to  
12 this for their commitment to Child Find. So they get about  
13 \$8,000 in that pot.

14 So, as we continue, they have about 70 students they  
15 had in 2018. Again, 70 students were parentally placed. They  
16 were eligible for services, and the parent either consented to  
17 service or the parent refused service. And then that was an  
18 additional, almost \$122,000. So between that amount of money,  
19 that's the money they must spend under federal guidelines to  
20 support students who are eligible and require services in  
21 private and religious schools.

22 So let's talk about selection. So remember that  
23 conversation that occurs annually? What services are going to  
24 be provided and supported through this proportionate share?  
25 It is an individual decision by each local school system and



1 their community partners.

2           So you will see most do speech and language. Many  
3 do occupational therapy. Many do physical. Our Baltimore  
4 City includes vision and audiology, and then almost all of  
5 them use professional development of consultation, which means  
6 supporting, if there's a challenge or a need, the local school  
7 system, they go to the religious school or to the private  
8 school to provide professional development or--and all  
9 teachers that are in the private schools are in religious  
10 schools can access professional learning delivered at the  
11 local level to all teachers. So that's another piece.

12           So this is put on websites. It becomes part of the  
13 conversation. It's part of the agreement, and every year,  
14 it's reevaluated. But I can share with you that these  
15 services here are pretty common, and this is really what most  
16 of our local school systems agree to.

17           Also, in the agreement, please know it talks about  
18 how much is available. So it might be four sessions per  
19 month, but not to exceed 120 minutes. So there's really a  
20 caveat or a parameter, so that they can support and provide as  
21 many services as possible to our children in the field.

22           So this is the overview. I think that this might be  
23 a good time to answer any questions that you may have. I  
24 think that as we look at this, these are really some of the  
25 decisions or some of the protocols or processes in place that

1 could maybe support some of the decision-making that you are  
2 involved here at the BOOST, for the BOOST conversation, so--

3 DR. GRASMICK: So looking at the document we  
4 received that we revised in April--

5 MS. FRANCKOWSKI: Yes. Mm-hmm.

6 DR. GRASMICK: --there is a clear statement here  
7 that I think is an important one, and that is--and you  
8 emphasized it, Marcella, in your presentation--and that is if  
9 a child is placed in a non-public school--and I am not talking  
10 about non-public special ed schools--there is not the  
11 requirement for that child to receive the same services that  
12 child would receive in the public school.

13 And when you look at the array of services--and this  
14 is not a criticism--of the public schools, but it doesn't--it  
15 isn't the academic program. It is not the academic program,  
16 and I think that's a really important point because for a  
17 child to be able to be successful in a non-public school who  
18 may have a significant learning disability--and I'm using that  
19 term broadly--this arrangement, as good as it is, is not going  
20 to accommodate that.

21 MS. FRANCKOWSKI: No.

22 DR. GRASMICK: I just think it's really important to  
23 state that clearly.

24 MS. FRANCKOWSKI: These was--in the selections that  
25 have been, it's mostly around related services.

1 DR. GRASMICK: Right.

2 MS. FRANCKOWSKI: But you're right.

3 The expectation is that the teachers and the  
4 religious in the schools are receiving professional learning  
5 and professional development, but would have, hopefully, that  
6 specially designed instruction, which you know equates to  
7 special education. And if that's not it, then they would not  
8 be receiving the services that would be recommended through an  
9 IED. That is correct.

10 DR. GRASMICK: And so when the consultation document  
11 is concluded, I'm sure the non-public schools are honest with  
12 parents and with the public school representatives and saying,  
13 "This is what we can do. This is what we can't do."

14 MS. FRANCKOWSKI: Right. It's an agreement. It's  
15 a written agreement, and it's very clear, the amount of time.  
16 It's also putting a cap. Right?

17 DR. GRASMICK: Yes.

18 MS. FRANCKOWSKI: Four times a month up until  
19 120--so also, it's a capping of services because when the  
20 money runs out--and, Dr. Grasmick, you bring up a very good  
21 point. If that proportionate share is used or the local money  
22 that they have added to that through passthrough, when it's  
23 gone in March, April, then that service--those services  
24 would--even this agreement--would end and not finish the  
25 school year.

1 DR. GRASMICK: So I think that's a cautionary note  
2 because it could be that through this process--and I don't  
3 know if it's occurring--there could be the recommendation of a  
4 non-public special education school versus a non-public  
5 private or religious school.

6 I mean, I know that goes through the whole IED  
7 process.

8 MS. FRANCKOWSKI: Right, right.

9 DR. GRASMICK: But to begin that process for  
10 consideration, if the child has very significant need.

11 MS. FRANCKOWSKI: And the question may be first the  
12 home school, the community school, the public school--

13 DR. GRASMICK: Right.

14 MS. FRANCKOWSKI: --first to be, but for many  
15 situations of religious, if it's not something that we can  
16 deliver based upon culture, then that could be a different  
17 conversation. Yes, ma'am.

18 MS. WILSON: Could I speak to this, Marcella?

19 MS. FRANCKOWSKI: Of course.

20 MS. WILSON: So, at its simplest level, IDEA, which  
21 is special education law--it's federal law--the IDEA money is  
22 federal funds, and the point of the federal funds--and I think  
23 this is sort of like that--that gets to the heart of the issue  
24 here--is to ensure that all children who have been identified  
25 with disabilities receive a free appropriate public

1 education--that acronym FAPE--the P in FAPE is public. So  
2 what the law--what the law reinforces, if a parent is choosing  
3 to send their child to public school, this is the funding that  
4 will ensure that the education they receive in public school  
5 is appropriate.

6 But a slice of this pie in the spirit of realizing  
7 that there are parents who choose to place their children in  
8 private schools and non-public schools is that a slice of this  
9 pie needs to be set aside for those kids who have been  
10 identified as requiring their services, but whose parents  
11 choose not to place them in public school.

12 So, unfortunately, the setup here is that there's a  
13 very small amount of money proportionately set aside, which is  
14 why the services are so limited and which is why--and we have  
15 parents who in the special education world want their child to  
16 go to a non-public special education school and will pay for  
17 it. The deal with the public schools is that the expectation  
18 is they be able to educate every child in their school system.  
19 If they can't for some reason, because the child's needs  
20 require such specialized instruction or care--the child has  
21 challenges sufficient that the school system feels that they  
22 can't do it--then the school system has to take public funding  
23 and pay for the non-public school, which is how some children  
24 end up in non-public schools, the process that Marcella  
25 described, and be there on public funding.

1           But that's the only time the public school will end  
2 up funding a non-public placement, so they're pretty unusual  
3 placements.

4           DR. GRASMICK: Yeah. So, I mean, I think it's an  
5 important discussion here about the differences between what  
6 the public schools offer and what non-public, private, and  
7 religious schools can offer legitimately. And that there's an  
8 honesty factor that the public school will be clear about what  
9 they believe the child needs, and then whether or not that can  
10 be provided.

11           So most of the cases I'm familiar with are the  
12 speech and language cases, where the child can come to the  
13 public school and get speech and language therapy, but that's  
14 not a strong dimension of an academic program.

15           MS. FRANCKOWSKI: And integrated as you always  
16 provided right in the setting.

17           DR. GRASMICK: So I just think that conversation is  
18 important because we want to be sure the child is getting what  
19 the child needs.

20           MS. FRANCKOWSKI: It's not a substitute for it, Dr.  
21 Grasmick. That's right.

22           DR. GRASMICK: And some parents, because it's been  
23 widely discussed, often think that the same obligation accrues  
24 to the private or religious school as it does to the public  
25 school.

1 MS. FRANCKOWSKI: No.

2 DR. GRASMICK: And I can understand a parent  
3 thinking that. A school is a school. But it's really  
4 important that that obligation is not the same.

5 MS. FRANCKOWSKI: No, no. And that's why it's all  
6 there. Thank you.

7 DR. GRASMICK: Making good--I think it's about  
8 making the right choices for the child.

9 MS. GREEN: Right.

10 MR. GALLAGHER: Do any of the other Board members  
11 have questions related to the presentation?

12 DR. GRASMICK: I have a question to ask you. So  
13 being on the Board and understand some of the cultural,  
14 religious, and issues around Jewish schools--

15 MS. GREEN: Mm-hmm.

16 DR. GRASMICK: --if a child needs a non-public  
17 school for those reasons, but the learning needs exceed what  
18 can be offered in that setting, I just wanted you to respond  
19 to that.

20 MS. GREEN: So you had a couple different things  
21 that happened. You have parents that decide that the  
22 non-academic needs of the child are more important than the  
23 academic needs, and they sacrifice their children's academic  
24 successes for other not-quite-so-quantitative reasons. So  
25 they're not making a decision based on thinking that they're

1 going to get the same educational needs addressed, but feel  
2 that there are other reasons to pull their child.

3           Some families are paying two to three times what the  
4 assessed tuition is in order to get their kids all of the  
5 services that they need, so they're paying for a shadow, and  
6 they're paying for up to eight periods a week or not even a --  
7 no. Sorry. Up to eight periods a day of tutoring.

8           And so they have the child in that setting because  
9 they don't feel they can be in a public school setting. They  
10 don't want them in a co-educational setting, or they don't  
11 want them in other things.

12           And I think that you have very few parents who are  
13 able to get their children publicly placed when the initial  
14 intent was to send them to a religious school. So when the  
15 parent always--they are not willing to try to see if their  
16 child is going to fail in the public school system and not  
17 be--and I do know that the Court of Appeals just rejected a  
18 case where a family said, "My child's religious needs are such  
19 that I can't put him in the public school setting, and he  
20 needs to have his private school paid for." And even though  
21 this child absolutely qualifies for all the services, the  
22 court said, "You're choosing to pull him out. He could have  
23 gotten--the things that you think he needs are not things that  
24 we think are required."

25           And so, I mean, I think it's very hard because we're



1 looking at when a parent is choosing to pull them into making  
2 decisions to put them in--to access the school choice, how  
3 much of that should be supplemented as we're looking at the  
4 numbers because the decisions are being made for every  
5 different reasons.

6 But parents are spending thousands of dollars to get  
7 them the assistance.

8 DR. GRASMICK: Thank you. That's an important  
9 point.

10 MR. GALLAGHER: If I could just ask on the data, the  
11 two handouts, the one has a staple. The first page, the  
12 application data for '18-'19, and then the single sheet is  
13 just the '18-'19 for special ed.

14 MS. KEARNS: Yes.

15 MR. GALLAGHER: I just want to make sure. Are we  
16 reading this correctly? So on the aggregate, the one with the  
17 staple, right now, with all the renewals and all the new  
18 applications, at the current aware levels, we have potentially  
19 \$7 million in the demand, \$7,060,000?

20 MS. KEARNS: Yes.

21 MR. GALLAGHER: Okay. And we have \$7.5 million and  
22 change?

23 MS. KEARNS: Yes.

24 MR. GALLAGHER: Okay. And then going to the single  
25 page on special ed--so the top, these special ed renewals,

1 these are people who have already received BOOST scholarships,  
2 who have gotten the previously established award levels,  
3 right? Okay.

4 And then the 235 there in the bottom, that 235  
5 is--or I'm sorry--the 116, that 116 is a subset of the 1,930  
6 that are new applications on the other page?

7 MS. KEARNS: Correct. But both are a subset. The  
8 renewals are a subset--

9 MR. GALLAGHER: Right.

10 MS. KEARNS: --of the entire renewal pool. The  
11 special education new is a subset of the entire new pool on  
12 the staple page.

13 MR. GALLAGHER: Okay. So stay with me for a second.  
14 In the last--in the language that came into the law, the  
15 budget language this year about special ed, it was they were  
16 supposed to consider trying to encourage special ed  
17 applications, right?

18 MS. KEARNS: Yes.

19 MR. GALLAGHER: Okay. And was it silent on  
20 adjusting the amount for special recipients, or was it--did it  
21 encourage the different award amount?

22 MS. GREEN: I think it mandated a different--

23 ATTENDEE: Shall.

24 MR. GALLAGHER: Shall.

25 MS. GREEN: Receiving a higher amount.

1 MR. GALLAGHER: Okay.

2 ATTENDEE: Require.

3 MR. GALLAGHER: So right now, we have 119 out of  
4 1,463 already at the current award, and then we've got--of the  
5 new ones, 116 of the 1,930.

6 MS. KEARNS: Yes.

7 MR. GALLAGHER: All right. So I would assume that  
8 if we went with a higher amount for the special ed awards, we  
9 would be able to reflect that in the renewables as well?

10 MS. KEARNS: I'm sorry?

11 MR. GALLAGHER: SO if you're a special ed recipient,  
12 your renewal--and if we decide it is going to be \$500 or  
13 \$1,000 more--

14 MS. KEARNS: Mm-hmm.

15 MR. GALLAGHER: --we can do that for the renewals as  
16 well as the new applicants?

17 DR. GRASMICK: I would say you need to, yeah.

18 MR. GALLAGHER: Yes?

19 MS. KAMEEN: I think so. I mean, we're talking  
20 about encouraging schools to admit special ed students, and  
21 even though--I see the distinction. They're already in there.

22 MR. GALLAGHER: Yeah.

23 MS. KAMEEN: So what encouragement do they need? It  
24 may be that additional bump would be the kind of help  
25 that--well, the student would need and that the school would

1 need to keep that student.

2 MR. GALLAGHER: Okay. So then another question that  
3 I would have, not get too far in the weeds, but there are  
4 non-public schools that serve special ed students that  
5 typically have the different rate structure, Elizabeth, as you  
6 alluded to. And I know the one I went to had a separate rate  
7 structure for special ed students that would fall outside of  
8 the parameters of the textbook eligibility.

9 So, you know, the example I'll give is I went to  
10 Calvert Hall. Calvert Hall had a program for special ed  
11 students, the Xavier Program. Xavier students' families paid  
12 a much higher level that would be well outside of the textbook  
13 and the traditional BOOST eligibility levels, which I think  
14 are 15- or \$16,000 towards tuition.

15 If the tuition is that much higher, does it--like I  
16 don't think it would mean to, but like I don't think that  
17 that's anything anybody considered in the budget language,  
18 that they would be paying such a disproportionately higher  
19 tuition rate.

20 I mean, I think it's a good argument that the awards  
21 should be larger, but we just never really thought about that  
22 or looked at that.

23 MS. GREEN: I don't know of your example would be  
24 disqualified from Textbooks. Certainly, a school like Jemicy  
25 that is only a higher tuition would be excluded, but I don't

1 know if a school has a program within it--Monica, maybe you  
2 know--whether any schools with a program within that's  
3 separate if they can--if that piece of their program qualifies  
4 for--

5 MS. KEARNS: For the Textbook program, the schools  
6 report to us their--if there are varying tuition rates--for  
7 example, a lot of schools will offer discounts for siblings.  
8 What we ask them to do is give us a figure of tuition revenues  
9 per pupil, so that we can just flatten all that, and so if  
10 there is any type of graduated tuition structure at a school,  
11 that's how we address it, so that the tuition revenues per  
12 pupil have to be at or below that statewide per pupil public  
13 school expenditure. So we don't necessarily know what they're  
14 putting into that.

15 MS. GREEN: Right. So I think it depends on how  
16 they report it. Is it a separate entity, or is it a program  
17 within an existing entity?

18 MS. KEARNS: Right.

19 MS. GREEN: But the stand-alone schools clearly  
20 don't qualify, and I don't think the legislature considers  
21 them at all in terms of--

22 MS. KEARNS: No.

23 MS. GREEN: --expanding who would qualify for where  
24 kids could go for--

25 MR. GALLAGHER: I mean, if we're being encouraged to

1 admit special ed students and you want them to have access to  
2 appropriate services, if there was a Jemicy that would have a  
3 different tuition structure that's reflective of the fact that  
4 all the populations that they're dealing with are much higher  
5 in terms of the cost--like if we give a BOOST scholarship to a  
6 kid who is going to Calvert Hall and they have to pay the  
7 higher tuition rate, from a policy perspective, wouldn't we  
8 want that student to potentially be eligible to go to Jemicy  
9 too? Because the tuition rate might actually be comparable.

10 MS. GREEN: I think you're starting our letter.

11 MR. GALLAGHER: Well, it's just a--it's an  
12 open-ended question, but I think we--

13 MS. GREEN: Yeah.

14 MS. GREEN: Schools have been excluded based on  
15 tuition level, and that makes sense in terms of people didn't  
16 want to pay for Gilman or Bryn Mawr. They wanted to pay for  
17 the more affordable non-public schools, but if we're bringing  
18 special ed into the discussions, if we're going to encourage  
19 special ed in terms of the applicants, the higher rates that  
20 some of these non-publics that are BOOST-eligible right now  
21 might be charging in these categories might be comparable to  
22 some of the schools that aren't in the program right now.

23 And I'm putting it out there as a discussion point  
24 that like I don't think anybody thought of that in the budget  
25 language, and I just wonder if we need to point that out to

1 somebody or reflect that back because I think it is a  
2 consideration.

3 DR. GRASMICK: Are you referencing non-public  
4 special ed schools or--I guess I'm trying to get in the  
5 classification here. Jemicy, first of all, is not a special  
6 ed school, even though it operates like a special ed. They  
7 don't have the designation, so that's a different thing.

8 But if you looked at Sheppard Pratt, say, are you  
9 talking about that or a school which has a component of  
10 special ed?

11 MR. GALLAGHER: I'm talking about schools that  
12 aren't BOOST Textbook-eligible right now because the clientele  
13 they serve would be more concentrated in these categories, so  
14 that they would have higher tuition levels that make them  
15 eligible.

16 And I guess from a policy standpoint, if we're going  
17 to give a BOOST scholarship to a family and they're going to  
18 go to a BOOST-eligible school right now that's going to charge  
19 a higher tuition rate because of their needs, are there other  
20 BOOST-eligible schools that would be as competitive, if not  
21 more competitive, and potentially better settings for those  
22 kids? That while they're not BOOST-eligible right now, should  
23 we be making a recommendation that if we're opening up the  
24 door on special ed higher awards, should we be opening up the  
25 door to look at other schools to participate? Just so you

1 widen the number of options.

2 MS. CAMP: And because I agree, and I guess the  
3 other question is when you level it out in those schools,  
4 whether or not because of the special ed program, maybe so  
5 much higher. Then it raises when you do the averaging, so  
6 that a school who otherwise would have been eligible is no  
7 longer eligible because of whatever their specialized programs  
8 are take them outside of eligibility.

9 And so, to that extent, I'm just wondering should  
10 there be a carve-out in general so that you can compare apples  
11 to apples as it relates to this one.

12 MR. GALLAGHER: I'm just thinking about the needs of  
13 the student.

14 MS. CAMP: Or the other people, right.

15 MR. GALLAGHER: If the needs of the student are  
16 paramount--

17 MS. CAMP: Yeah.

18 DR. GRASMICK: Correct.

19 MR. GALLAGHER: --and if there are schools--

20 MS. CAMP: Wherever they go.

21 MR. GALLAGHER: --that are probably more experienced  
22 and better situated to serve them, but they're not in the  
23 program right now because of this tuition level barrier, like  
24 should we be considering that it makes sense to widen the  
25 access to the program of the school, so that the special ed



1 students have more--potentially better options? That's my  
2 question.

3 MS. CAMP: But I think that's--I would be scared to  
4 expand it where you then make--you open it up for non-special  
5 ed to make sure that that is for just them because if it  
6 may--I mean, you can [inaudible] Baltimore. If all of a  
7 sudden, the school itself eligible, I think you would run into  
8 some issues. But if you are just comparing all of the schools  
9 and the tuition for special ed, then there might be a way to  
10 have language or policy that would allow for whatever the  
11 school is.

12 MR. GALLAGHER: I think we should put a pen on this  
13 issue to come ask.

14 MS. GREEN: I think it's a really good issue for us  
15 to go through. I think for--I would rather put it to the sort  
16 of back end of our process and not--

17 MR. GALLAGHER: Well, we can't get a new school in  
18 at this point, so this would be a prospective issue. But I do  
19 think it's one that we should come back to at some point. I  
20 don't think anybody thought about that, the language.

21 MS. GREEN: And I think it's also very possible that  
22 we're going to see somewhat of a rush on you all to get  
23 some--to get parents looking to get their kids into getting  
24 proper qualifications because it's never made a difference for  
25 the non-public schools, for many of the non-public schools

1 before because the kids weren't getting dollars for what they  
2 were doing. So the parents were never even trying to get  
3 there.

4 Now that the language is such that there would be an  
5 incentive, parents may be looking to get some of those, and  
6 even some of the parents that are moving from the public  
7 school system may be looking to get--

8 MS. FRANCKOWSKI: Right. It's a new open door.

9 MS. GREEN: Correct.

10 MS. FRANCKOWSKI: It's a new question. It's an  
11 opportunity.

12 MS. GREEN: Right.

13 DR. GRASMICK: So one of the questions I would ask,  
14 Marcella, is--

15 MS. GREEN: That's a very positive way of looking at  
16 it.

17 MS. FRANCKOWSKI: I try.

18 DR. GRASMICK: --if one of the schools we're talking  
19 about would be a non-public special ed school, they already  
20 get a contribution from the state.

21 MS. FRANCKOWSKI: Yes, they do.

22 DR. GRASMICK: So what would--I guess it's to Alan  
23 and Liz and you. What would be the eligibility, if that's the  
24 best placement for the child? The family meets the income  
25 criteria. Can they get an additional amount of money through

1 BOOST to go to that school? Because that's the best school  
2 for that child.

3 MR. DUNKLOW: They're only getting a state local  
4 share if they go through the public option and the IEP process  
5 places them there.

6 DR. GRASMICK: Right.

7 MR. DUNKLOW: So if they're going around that, they  
8 wouldn't necessarily get that.

9 DR. GRASMICK: But if they go through the process  
10 and they are eligible financially to get a BOOST scholarship,  
11 I just want to--

12 MR. DUNKLOW: It would be free, though.

13 MS. FRANCKOWSKI: But what Dr. Grasmick is saying,  
14 I believe, is that they would be parentally placed by that  
15 family to selecting non-public special education school, but  
16 did not, were not approved, and did not go through the IEP  
17 team process.

18 You know, we have non-public special education  
19 schools where some are paid with the state-local share with  
20 state dollars--

21 MR. DUNKLOW: Right.

22 MS. FRANCKOWSKI: --and then others are parentally  
23 placed.

24 Dr. Grasmick's question is for that family choice to  
25 place in a Sheppard Pratt without the IEP process, would they

1 get this extra funding to support that.

2 MR. DUNKLOW: If they were eligible for the program.

3 MS. KAMEEN: Right. If they were eligible for a  
4 BOOST scholarship, the school was eligible to be a  
5 participant, and if the tuition were, you know, X, and this  
6 student got \$4,400 plus whatever of this \$600,000, they could  
7 use that toward the tuition, I think.

8 But a lot depends on whether they can actually get  
9 into the BOOST program as a school because of the tuition  
10 right now.

11 [Simultaneous speaking.]

12 ATTENDEE: You're correct.

13 MR. GALLAGHER: Any other questions on the special  
14 ed?

15 MS. FRANCKOWSKI: No. We stand positioned to  
16 answer any questions.

17 MR. GALLAGHER: Thank you.

18 MS. FRANCKOWSKI: Thank you.

19 DR. GRASMICK: Thank you. We need to deal with  
20 this.

21 MS. GREEN: Yeah, yeah.

22 DR. GRASMICK: Thank you.

23 MS. FRANCKOWSKI: It's a pleasure to see you. Bye,  
24 everyone.

25 MR. GALLAGHER: Thanks.

1           So can we just go out of order for a minute and go  
2 to No. 4 on the agenda?

3           MS. KEARNS: Sure. Sure.

4           MR. GALLAGHER: The updated summary of application  
5 data for '18-19, and potentially No. 5 as well.

6           MS. KEARNS: Mm-hmm.

7           MR. GALLAGHER: So just by my quick math, we have  
8 \$7.55 million available, and we have about \$7 million in  
9 applications right now in terms of the renewals and the new  
10 applications, and that leaves a little bit over a half a  
11 million dollars available to either the just award amounts in  
12 total and the special ed amounts.

13           So, well, it's disappointing, I guess, that the  
14 number of applications has gone down, and that's something I  
15 think we have to spend some time talking about. I think we're  
16 in relatively good shape in terms of we can accommodate the  
17 renewals. We can accommodate the new applications, and we  
18 actually have a fairly generous pool available to adjust the  
19 special ed awards.

20           On average--I'm not suggesting we do this, but on  
21 average, if you took the balance, divided it by the 235  
22 special ed students, we have more than \$2,200 available per  
23 special ed student for an adjustment to the special ed awards.

24           Now, I'm not suggesting that we make adjustments of  
25 that magnitude, but that is available.

1           We also have--you know, we can make inflationary  
2 adjustments, you know, to the other awards, whether it was 1  
3 or 2 percent to just kind of be keeping pace with what I  
4 suspect is tuition growth, so that's an option as well.

5           Does anybody--I mean, I guess one of the things I'm  
6 concerned about, if we went as high as \$2,200 on the special  
7 ed adjustments, would we run into situations where the award  
8 would eclipse the tuition at the school, maybe in some cases  
9 probably not a ton of them, but if \$1,000 award became \$3,300  
10 awards, is there going to be like an onslaught of people who  
11 are looking to kind of reclassify special ed or kind of pursue  
12 that and feel incentivized?

13           MS. GREEN: One question I had--and I don't know how  
14 it--when the tuition bill goes out from some schools, its'  
15 not--you get--your tuition is, let's say, \$5,000, and then you  
16 have a separate bill of \$1,500 that is your special education  
17 cost. Is that--are now as--if a school is looking at the  
18 award the child gets, is it based on that \$6,500? So, when  
19 they look at the need that that parent has, would they be  
20 working with the \$6,500, or are they still limited to that  
21 \$5,000?

22           MS. KAMEEN: When you say special education costs,  
23 that's--I mean, maybe it's not lumped into the \$5,000 tuition,  
24 but it is tuition.

25           MS. GREEN: Well, I mean, it is. Right. And it is

1 often required in order for the child to be in school.

2 MS. KAMEEN: Yeah, yeah.

3 MS. GREEN: The school has said, "You must have two  
4 sessions of a learning center with this frequently." I just  
5 want to--I guess, in some ways, it's a question for you, and  
6 in some ways, I guess it's a question for Monica down the line  
7 to make sure that when we're communicating with the schools,  
8 the actual tuition for that student in the school's mind is  
9 \$5,000, but the all-in for the student of the educational cost  
10 is the \$5,500. And when it comes to like the payback, if  
11 necessary, if the need is less, I think the need is the  
12 \$5,500, not--or \$6,500, whatever my numbers were, not the  
13 \$5,000. It's somewhat semantics, but semantics are important  
14 at times.

15 MS. KAMEEN: I'd be comfortable with that. Monica,  
16 are you?

17 MS. KEARNS: Yeah. I mean, we're just going to  
18 probably perhaps enter a different mode with schools because  
19 right now they're just entering this data into our portal, and  
20 it's all self-reported. So they are--they have the  
21 assurances. I was just thinking them. I think it's worded to  
22 say tuition and fees. So it has an inclusive approach in the  
23 explanation of how--what schools need to do to participate,  
24 so--

25 DR. GRASMICK: And can I ask do you assume--and I'm

1 asking you, Monica--that they have to follow the consultation  
2 process to get the money? If we chose to give additional  
3 money for education, that they would go through the  
4 consultation process?

5 MS. KEARNS: There's nothing in the assurances right  
6 now that the schools have signed off on or not signed off on,  
7 as the case may be, that pertains to this. It's just a  
8 reporting.

9 MS. KAMEEN: Let me add this in, though, because you  
10 remember how we were talking about how are we identifying  
11 these special ed students?

12 DR. GRASMICK: Right.

13 MS. KAMEEN: And we were identifying them--our  
14 recommendation was because they would have an individualized  
15 service plan.

16 DR. GRASMICK: Right, absolutely.

17 MS. KAMEEN: Or if they're coming from the public  
18 school, they had an IEP or a 504 plan.

19 DR. GRASMICK: Right.

20 MS. KAMEEN: So that is what the parents used in  
21 identifying their kids.

22 DR. GRASMICK: Right.

23 MS. KAMEEN: So those would be the three mechanisms.

24 DR. GRASMICK: Right.

25 MS. KAMEEN: But the school, if the kid doesn't



1 have--if the private school child doesn't have an  
2 individualized service plan, the school can't say, "But I give  
3 them special services." You would have to have an  
4 individualized service plan for that kid.

5 DR. GRASMICK: Right. Because you have to validate  
6 in some way.

7 MS. GREEN: I think, actually, Dr. Grasmick, it's  
8 probably--what I hear is a potential fear that you're  
9 identifying--is actually, probably the opposite of the  
10 reality. There are more students getting special education  
11 resources in the non-public school system than have  
12 individualized plans and then qualify for the BOOST--the BOOST  
13 boost to them.

14 So that the schools are being required to follow  
15 those plans in order for those students to be able to be in  
16 this.

17 DR. GRASMICK: But when you say they're following  
18 those plans, these are plans that are done in collaboration  
19 with the public schools in order to get that carved-out public  
20 funding. So that's all I'm asking, is we would continue the  
21 process of ensuring that there is this plan developed.

22 MS. KEARNS: Well, sorry. Just to pipe up, though,  
23 because this is so new this year and is evolving a little bit.  
24 So the parents were asked what's on the bottom of your special  
25 education handout, whether--and actually, it says whether the

1 student is eligible for services in these categories. So  
2 whether or not they're currently receiving it--

3 DR. GRASMICK: Is a different--

4 MS. KEARNS: --is not a deal breaker.

5 DR. GRASMICK: Right, right.

6 MS. KEARNS: It's just eligibility.

7 DR. GRASMICK: Right.

8 MS. KEARNS: So, however, that's what the  
9 application said, but then there were further discussions.  
10 And by the time the school assurances came out, those--the  
11 school--those three things are mentioned in the assurances,  
12 but it also says "or a similar educational plan used by the  
13 non-public school for students with special needs." So we did  
14 not stick to the three. Remember, Alan? We did not stick to  
15 the three categories.

16 By the time we got to the school assurances, this  
17 had evolved.

18 MS. KAMEEN: I thought we did, but maybe that was--I  
19 don't know.

20 DR. GRASMICK: But then how did they access the  
21 money that's carved out that Marcella spoke to if they haven't  
22 gone through--if they don't have any of this?

23 MS. KEARNS: I guess I'm not following.

24 DR. GRASMICK: Okay. So you can see what the  
25 funding is from the Federal Government that local school

1 systems have to use for students who are going to non-public  
2 schools, okay? The only way the local jurisdiction would know  
3 what money to give them is if they're identified through the  
4 local school system. I'm just asking. And if they are  
5 identified that way, they go through a process.

6 So if the parent just says, "No. I want to put them  
7 in the school. I don't want anything to do with the local  
8 public school," then the responsibility falls to the parent.

9 MS. KAMEEN: Correct.

10 DR. GRASMICK: And they don't get the public money.

11 MS. KAMEEN: I think--yeah--that what we really want  
12 to focus on is the child in the private religious school has  
13 an individual services plan--

14 DR. GRASMICK: Right.

15 MS. KAMEEN: --or has come from the public school,  
16 having had an IEP, but will now have an individual services  
17 plan, so it all goes back to this.

18 DR. GRASMICK: And then they can access the public  
19 monies.

20 MS. KAMEEN: And that will be how you're picking the  
21 students who will get the BOOST in their scholarship fund--

22 DR. GRASMICK: Yeah.

23 MS. KAMEEN: --because they're identified students  
24 with disabilities, identified through a formal process.

25 MR. DUNKLOW: But the assurances is what the schools

1 are willing to report to MSDE. The application, if I'm  
2 correct, had the three buckets, not four.

3 DR. GRASMICK: Yes.

4 MR. DUNKLOW: So when you're making decisions based  
5 on the applicant pool, you are utilizing the three criteria  
6 that have defined eligibility. I think there was some  
7 discussion about trying to--at some point, if the Board wanted  
8 to explore additional information, that we would want the  
9 schools to assure that we would be able to get that, if we  
10 needed to get information about other things that we're doing.  
11 But if these three buckets are what makes sense--and it sounds  
12 like it does--then the applicant pool is defined that way.

13 DR. GRASMICK: Yes.

14 MS. GREEN: Dr. Grasmick, I think the issue with  
15 accessing this funding is that presumably all of the families  
16 that applied and checked the box on their application are  
17 receiving this funding.

18 DR. GRASMICK: Included.

19 MS. GREEN: It's just there are--then the  
20 question--you know, we don't know exactly what's going to be  
21 down the line in terms of the schools and whether the schools  
22 are getting it, but I think--all of them qualify for this  
23 funding if they have identified themselves as such.

24 DR. GRASMICK: But they don't get the--my point is  
25 they don't get the funding--if I'm a parent, I have a child

1 who has a learning disability, and I want to access the BOOST  
2 money. But I'm not going to go through my public school  
3 system. I'm going right up to--name the school--and enroll my  
4 child, a non-public or religious school. They would not be  
5 identified through the public school.

6 MR. DUNKLOW: So I think what you're pointing out is  
7 the fact that, to the count--if you look at the footnote on  
8 Marcella's chart, the count includes those that are eligible  
9 for a services plan, whether or not the parent consented to  
10 receive those services or declined.

11 And so what your point, I think, is is that to  
12 access the BOOST funds and as it's outlined in the  
13 application, you have to say that you are eligible for one of  
14 these, whether or not you are getting it. You are counted,  
15 and then part of the proportionate care count.

16 DR. GRASMICK: Right, exactly.

17 MR. DUNKLOW: Because that's what the footnote on  
18 Marcella's chart says is that those who are deemed eligible  
19 are who's counted, and that equates to the proportionate  
20 share. so that's what the applicant pool is based on.

21 MS. KEARNS: Yes. That is what the application had,  
22 the three buckets.

23 MR. DUNKLOW: Mm-hmm.

24 DR. GRASMICK: Okay.

25 MR. GALLAGHER: So what I would suggest as it

1 relates to the award amounts and the special ed adjustments,  
2 there's basically 500--like if you start, I think one of our  
3 principles has been once you receive an award, we want to  
4 sustain the award to sustain the enrollment, and since the  
5 first year, we've been very focused on the renewals. So if  
6 you consider the existing award levels, whether it's \$1,000,  
7 \$1,400, \$3,400, or \$4,400, you consider that kind of the base  
8 award. And if we stuck to the base awards, we have \$7 million  
9 allocated. We have another \$538,000 available.

10           So, within that \$538,000 that would be available to  
11 supplement the base awards, I think we have two options. One  
12 would be some level of inflationary adjustment to the base  
13 awards to reflect that we're 3 years into the program now--and  
14 not a suggestion, but if you said a 2 percent per year  
15 adjustment, that would eat up about 415- to \$20,000 of that  
16 additional pool. If we did that and then we said \$500  
17 adjustment for special ed, that would basically allocate all  
18 of the money to get us to the 7.55 number.

19           So that would be base award, 2 percent per year  
20 adjustment, so basically like a 6 percent adjustment to the  
21 base awards, and then a \$500 supplement if you're one of the  
22 235 kids that we've identified as special ed.

23           I don't know if that's the right way to go. We  
24 could drop the inflationary adjustment and increase the  
25 special ed adjustment.

1 I do think that we should be mindful of--you know,  
2 right now, 8 percent of the renewals fall into the special ed  
3 category. 6 percent of the new applications fall under the  
4 special ed category. I don't know what the right percentage  
5 is, but I don't know general population like of the schools,  
6 public schools, what percentage are special ed.

7 DR. GRASMICK: It's about 14 percent.

8 MR. GALLAGHER: It's about 14? Okay.

9 So I don't know how much we should be incentivizing,  
10 and I also don't know if we incentivize too much if it's going  
11 to lead to like a migration of categorization and kind of pre  
12 other issues that are kind of unanticipated.

13 So I would argue that we would want to make an  
14 adjustment, but it should be measured so that we have time to  
15 kind of evaluate these issues a little bit more closely.

16 MS. GREEN: And I think, to answer a question you  
17 asked before, we just did a flat--you had said \$2,000 per kid.  
18 I think that for some of the students, you might end up  
19 getting money given back because if you're looking at \$4,400  
20 plus \$2,000, there we might have an issue with money coming  
21 back. So being more measured, I think, makes a lot of sense  
22 on a lot of levels.

23 One possibility is that we had an idea, that to the  
24 extent that there are--if we're able to fully fund all of the  
25 applications this year, that we have a policy that when we go

1 back and look at money that isn't used, we could give an  
2 additional amount to the special ed families from what's left.  
3 We might make that--if we have the ability to do that down the  
4 line because it's a small amount of people.

5 ATTENDEE: To sort of mitigate against population  
6 shifting over because they see extra funding.

7 MS. GREEN: Both. But also to just--because  
8 suddenly we seem to potentially have enough money to cover  
9 everything, which is a new phenomenon. I don't think one that  
10 will continue but a new phenomenon, just because I think that  
11 there may be more applications.

12 MR. GALLAGHER: It strikes me as strange that on the  
13 special ed renewals, we have one renewal of a public school  
14 student, and all the rest are previously attended non-public.  
15 And then when you go down to the new applications, we have a  
16 lot more new applications that are coming in from special ed.

17 MS. GREEN: I think some of that could be that  
18 families discovered that they're not going to use any  
19 services. You know, they just--their child needs more  
20 services than can be given in the private school setting.

21 MR. GALLAGHER: But also, the renewals, if you're in  
22 a private school and you're going for a renewal, you might not  
23 consider yourself special ed anymore. They might not call it  
24 "special ed" in the private school.

25 DR. GRASMICK: Right.



1 MR. GALLAGHER: So you get into categorization  
2 issues too. Like if you went from Johnson Square Elementary  
3 to St. Dominics, they might not say you're special ed student.

4 So I just think there's a lot we need to unpackage  
5 around special ed.

6 DR. GRASMICK: I agree.

7 MR. GALLAGHER: I'm just preaching caution, I think,  
8 basically.

9 DR. GRASMICK: I agree with that, and I also think  
10 we need to hear from some of the schools in terms of what  
11 their anxieties may be or how they can comply. I just think  
12 it's important to hear from selected schools from different  
13 categories about this.

14 So I would err on the side of caution.

15 MR. GALLAGHER: Okay.

16 So on the allocation plans, does everybody agree  
17 that we stick to the base awards?

18 [No audible response.]

19 MR. GALLAGHER: Okay. And then should we work up  
20 a--the base awards meaning \$1,000 to \$4,400.

21 MS. GREEN: As opposed to giving a--

22 MR. GALLAGHER: No. That we start there, and then  
23 maybe we look at a couple of scenarios in terms of how to  
24 apply the balance of the \$538,000--

25 MS. GREEN: Correct.

1 MR. GALLAGHER: --between inflationary increases and  
2 a special ed adjustment.

3 ATTENDEE: Yes.

4 DR. GRASMICK: Yes.

5 MR. GALLAGHER: Okay.

6 MS. KAMEEN: Matt, just--I just want to remind  
7 everybody that the law really says further provided at  
8 \$600,000 of the appropriation shall be used.

9 MR. GALLAGHER: Oh, it's that specific. Okay.

10 MS. KAMEEN: Yeah. Shall be used for higher  
11 scholarship awards to students with special needs.

12 MR. GALLAGHER: Okay.

13 MS. KAMEEN: So I just want to make sure we're  
14 focused on the right amount.

15 MS. GREEN: But--and I don't mean to--I don't mean--

16 MR. GALLAGHER: Can you just read it--can you just  
17 read it one more time? I'm sorry.

18 MS. KAMEEN: Sure. \$600,000 of this appropriation,  
19 which is the \$7 million, shall be used only for higher  
20 scholarship awards for students with special needs in  
21 accordance with paragraph 6, which is reviewing and  
22 determining scholarship awards.

23 MR. GALLAGHER: But the \$600,000--

24 MS. KAMEEN: Is dated.

25 MR. GALLAGHER: No, but--

1 MS. KAMEEN: Yeah.

2 MR. GALLAGHER: We have renewals that are special  
3 ed.

4 MS. KAMEEN: Of course.

5 MR. GALLAGHER: Does that count in the awards to  
6 those people?

7 MS. GREEN: No, the base awards. So I think we  
8 talked about those things last meeting.

9 MS. KAMEEN: It's whether--whether for higher  
10 scholarship awards with students with special needs.

11 MS. GREEN: Is it the 500? Let's say we used--is it  
12 the 500, or it a \$1,500 instead of \$1,000?

13 MS. KAMEEN: I don't understand.

14 MR. GALLAGHER: So if you have a special ed student  
15 who is getting \$1,000 award renewal, and we adjust it to  
16 \$1,500, does that count at \$500 towards the \$600,000, or does  
17 it count at \$1,500 towards the \$600,000?

18 MS. KAMEEN: I'm think it's only the \$500 that  
19 counts, but I'm willing to rethink that and play with some  
20 numbers.

21 MS. GREEN: I mean, I think that this year that may  
22 make a lot of sense in many ways, but if the whole goal is to  
23 get families that weren't--families that did not feel that  
24 they had the ability to access school choices because their  
25 children were receiving services and now they feel that

1 they--because they can get a higher award, they can now apply  
2 to BOOST and get enough money that they can put their kids in  
3 these schools, arguably their entire award is serving the goal  
4 of getting families to apply who otherwise would have felt  
5 that this was not an option for them.

6 MS. KAMEEN: Well, yeah. And that goes to intent as  
7 opposed to, you know, what we actually know as a fact. So, I  
8 mean, I think you can grapple with how you want to think about  
9 that and how you're parsing it out, but I'm just pointing out  
10 that the statute says \$600,000 of the appropriation shall be  
11 used for higher scholarship awards.

12 MR. GALLAGHER: So what that would mean based on  
13 what we have in terms of eligibility--I think the way the math  
14 on that would work would be if we took the 235 special ed  
15 students that we had and we had to augment their awards by  
16 \$600,000 over the baseline, that we would probably go from  
17 being able to accommodate all the applicants to not being able  
18 to accommodate all the applicants.

19 MS. KAMEEN: That's--

20 MR. GALLAGHER: And we're going to lose eligible  
21 applicants who are not special ed if we interpret it that the  
22 600 has to be additive to the base award.

23 MS. CAMP: But the way it reads, I think it can be  
24 read as the \$1,500, using that same example, because that then  
25 becomes the higher award. And whether--it is a higher award,

1 and in reading it broadly rather than narrowly, I think it's  
2 more consistent with the purposes and goals.

3 And I cannot imagine the legislature wanting a  
4 situation where in order to give to one group--

5 MS. KAMEEN: You have to take--

6 MS. CAMP: --take away from another, and so I think  
7 we should err--at least my personal opinion is that we should  
8 err on the side of a broad reading of it in order to be able  
9 to accommodate both.

10 MR. GALLAGHER: Why don't I suggest--I mean, I think  
11 that we're all in agreement about protect base awards,  
12 supplement, as the additional money is available. Perhaps the  
13 Attorney General's office can deliberate on the reading of  
14 that provision, and then we can reflect it in a handful of  
15 scenarios. But I think that--I think, largely, we're in  
16 agreement that we make some level of inflationary adjustment  
17 to the base awards and then we apply the enhancement on  
18 special ed kind of a measured way. Okay.

19 And I think that, you know--I think that we could  
20 build a spreadsheet pretty easily that would show the buckets  
21 of the students by category and by kind of a scholarship  
22 award, where we have one or two or three scenarios--one,  
23 inflation increase and then how that would affect the pool of  
24 money that would be available for the special ed enhancements,  
25 and maybe we could get a spreadsheet around so that the

1 members could kind of--I mean, I assume this would be  
2 permissible.

3 We'd get a spreadsheet around. The members can  
4 noodle with it, see if they like a particular scenario, and  
5 then we could vote on a potential scenario for the  
6 obligations. Does that make sense?

7 MS. KEARNS: Okay. Sure.

8 MR. GALLAGHER: Okay. All right. Any--

9 ATTENDEE: [via telephone] Yes, I agree with that  
10 in everyone.

11 MR. GALLAGHER: Okay.

12 Any questions about that, 4 or 5?

13 [No audible response.]

14 MR. GALLAGHER: All right. So now we are at the No.  
15 3, which is the compliance on the nondiscrimination  
16 requirements.

17 So in preparation for the meeting and in consulting  
18 with MSDE and Attorney General's office staff around the  
19 agenda, there is some information that's available in terms of  
20 the Attorney General's office that relates to recent court  
21 rulings that has not yet been memorialized in any type of memo  
22 or any type of formal advice to the Board. And it has been  
23 suggested that we would probably be well served to get briefed  
24 on that information, and it might make sense to do that in a  
25 closed setting to get that legal briefing.

1           We've been very protective--well, we have endeavored  
2 to this point through 3 years that all of our meetings have  
3 been open and that we haven't gone into closed session.

4           So what I would suggest is, if the Board is  
5 agreeable to this, we would go into closed session to get the  
6 briefing. We wouldn't do any deliberating. We wouldn't take  
7 any action in closed session. We would only do that in the  
8 open session, and that we will reflect kind of the thinking of  
9 the board and the decision-making any underlying like legal  
10 justification for that in the minutes and in the open meeting  
11 discussion that we would subsequently have later today in this  
12 meeting or in follow-up meetings.

13           Liz, was that a fair statement?

14           MS. KAMEEN: That is perfect.

15           MR. GALLAGHER: Okay.

16           MS. KAMEEN: So you just need a motion to go into  
17 the closed session.

18           MR. GALLAGHER: Okay. Well, first, I just want to  
19 ask. Do any of the Board members have any objection to that?

20           [Chorus of noes.]

21           MR. GALLAGHER: Okay, great.

22           So can I get a motion for the Board to go into  
23 closed session?

24           DR. GRASMICK: So moved.

25           MR. GALLAGHER: Okay.

1 MS. CAMP: Second.

2 MR. GALLAGHER: Second.

3 All in favor?

4 [Chorus of ayes.]

5 MR. GALLAGHER: Okay. So for the attendees, we're  
6 going to go into closed session. We would ask you to leave  
7 the room and--

8 MS. KEARNS: I have a room down the hall reserved.

9 MR. GALLAGHER: There's a room down the hall which  
10 you can hang out. We're going to get briefed. Then we will  
11 come back into open session. We will still have the public  
12 comment period, and if there are any deliberations that will  
13 happen today, they will happen in open session.

14 MS. KEARNS: Okay. And then the camera--does the  
15 camera--

16 THE VIDEOGRAPHER: It's going to leave the room.

17 MS. KAMEEN: No, the camera does not go into closed  
18 session.

19 MS. KEARNS: That's what I mean.

20 [Whereupon, the BOOST Advisory Board went into  
21 closed session off the record.]

22 MR. GALLAGHER: [In progress]--3. Follow-up on  
23 student compliance with nondiscrimination requirements. We  
24 have some requests for eligibility reconsideration, and then  
25 we also had a number of schools that still had pending



1 consideration.

2           So the first school that we're going to take up is  
3 Broadfording Christian Academy from Hagerstown, and the Board  
4 has been provided a copy of their written policies. It was  
5 also provided some further--some answers to some further  
6 inquiries we had made.

7           The Attorney General's office has advised that the  
8 policy--the published policies are consistent with the  
9 applicable laws governing BOOST, and that it's the opinion  
10 that they are in compliance.

11           So for the Board's consideration, because they had  
12 been put into a bucket where we needed to reconsider this one,  
13 we have the information from MSDE and the Attorney General's  
14 office. The Board would act to reconsider their request, and  
15 so I would make a motion that we favorably reconsider  
16 Broadfording Christian Academy in terms of their eligibility  
17 for BOOST.

18           ATTENDEE: I second.

19           MR. GALLAGHER: We have a second. Okay.

20           All in favor on the Board? Aye.

21           [Chorus of ayes.]

22           MR. GALLAGHER: So the Board is unanimous on  
23 Broadfording Christian Academy's eligibility.

24           Okay. The second request for eligibility  
25 reconsideration was Grace Academy in Hagerstown. Again, MSDE

1 provided us their policy documents, some of which have been  
2 updated, correct?

3 We've also received advice from the Attorney  
4 General's office in terms of their evaluation of that  
5 language.

6 The issue that still persists with Grace Academy is  
7 they had been excluded from the program the first year because  
8 they had language that was noncompliant and was in conflict  
9 with the written assurances that they received. They have not  
10 been eligible for the current year, '17-'18 that we're in  
11 right now, and their revisions to their policy documents have  
12 come after their eligibility for consideration in '17 and '18.

13 So what we basically have is we have a new set of  
14 policy documents that have been made available to MSDE and the  
15 Attorney General's office really beyond the window in which  
16 they could have been considered.

17 So based on advice from Attorney General's office,  
18 the evaluation of MSDE, the potential exists that Grace  
19 Academy could be considered for involvement in BOOST during  
20 the next eligible window, which would be a determination that  
21 would happen administratively at MSDE.

22 So I would make a motion that we would advise Grace  
23 Academy in Hagerstown that they can contact MSDE to be  
24 considered for application in the program at the next  
25 available window.

1 DR. GRASMICK: Second.

2 MR. GALLAGHER: Second. All in favor? Aye.

3 [Chorus of ayes.]

4 MR. GALLAGHER: Okay. So we're unanimous in terms  
5 of that notification for Grace Academy.

6 We have another two schools that are still under  
7 review that provided additional information to MSDE and to the  
8 Attorney General's office.

9 These are schools that had gone through the process  
10 that had been involved in the BOOST program, and when MSDE and  
11 the Attorney General's office initiated the review of the  
12 policy documents and disciplinary documents to ensure  
13 compliance with the assurance language, there were elements of  
14 their published policies which require further evaluation by  
15 the Board.

16 So these had been further evaluated. The schools  
17 had been contacted to provide additional supplemental  
18 information. The additional supplemental information has been  
19 considered by MSDE and the Attorney General's office and now  
20 the Board, and the Board has been asked to consider this  
21 information and make a determination as to their eligibility  
22 for the '17-'18 school year. Is that correct?

23 Okay. So in the case of Bethel Christian Academy  
24 and Woodstream Christian Academy, there remain elements of the  
25 published policies of those schools that are not consistent

1 with the nondiscrimination requirements governing BOOST, and I  
2 would make a motion, either jointly or two motions, one for  
3 Bethel and one for Woodstream, that they not be considered  
4 eligible for the program in 2017 and 2018. So I'm making a  
5 motion.

6 MS. CAMP: Second to both.

7 MR. GALLAGHER: Second to both or second  
8 individually. Whatever we need to do. But I think we just  
9 did both.

10 ATTENDEE: Both is good.

11 MR. GALLAGHER: Both is good.

12 All in favor? Aye.

13 [Chorus of ayes.]

14 MR. GALLAGHER: Unanimously again. The vote of the  
15 Board is to not deem Bethel and Woodstream eligible for  
16 inclusion in BOOST right now.

17 All of the four schools that we just acted on will  
18 be contacted by MSDE and notified of the decision and the  
19 explanation, and copies of those letters will go to obviously  
20 the school, but the Board will see those as well. Okay.

21 MS. GREEN: Is it possible, is it appropriate, for  
22 the letter that goes to the schools to address--if they want  
23 to change their policies, at what point that could be  
24 submitted for consideration? In other words, if you change  
25 your policy now, we're looking at next school year, but if you

1 change your policy, you know, in the summer, next summer,  
2 that's not going to work. That a change needs to be made at a  
3 point that--

4 MR. GALLAGHER: I think it's definitely fair that we  
5 can include in the letter when the next window opens for  
6 schools to be considered, the policies they might consider.

7 MR. DUNKLOW: Yeah.

8 MR. GALLAGHER: And I think that we have to address  
9 that anyway in the case of Grace Academy--

10 ATTENDEE: Right.

11 MR. GALLAGHER: --because of their timing issue. So  
12 I think that that's certainly a line or a sentence that we can  
13 include in the communications.

14 But that's an MSDE issue in terms of the windows for  
15 eligibility for the schools.

16 Any--on the Board level, any thoughts, questions, or  
17 concerns about these issues or any of the other articulated  
18 items on the agenda?

19 DR. GRASMICK: No. Just to welcome Valerie  
20 Carpenter. Would you like to--

21 MS. KEARNS: Sure. Yes. Thank you.

22 I'd like to introduce Valerie Carpenter, sitting  
23 right here, and so she is a new staff member at MSDE who will  
24 work on the BOOST and Textbook programs. So welcome, Valerie.

25 MS. CARPENTER: Thank you.

1 MS. KEARNS: She comes to us from another state  
2 agency, the Department of Housing and Community Development.

3 MR. GALLAGHER: Welcome.

4 Okay. I guess at this point, we would open up the  
5 meeting for public comment from any of the public attendees.

6 MR. RADZIWILL: [via telephone] Yeah, I had a  
7 comment. Brian Radziwill from the Archdiocese of Washington  
8 Catholic Schools office.

9 And I had sent a comment, I guess, about a month ago  
10 to Monica to ask about that designation for special education.  
11 I'm a little concerned--you know, at that time, I submitted  
12 the comments that I thought--that we thought identifying for  
13 special ed should be expanded beyond just IEP 504 ISP, but  
14 also have language to support similar educational plan that's  
15 used by the non-public school for students with special needs.

16 The reason for this, I just think there's a lot of  
17 reasons why a parent may not go through the ISP process. I  
18 realize you had said that it's not just if you have an ISP or  
19 IEP, but if you're actually eligible for one. But in either  
20 event, it assumes the family has gone through a formal  
21 evaluation process through Child Find, through the local  
22 public school district, and there's a lot of reasons why a  
23 parent may not do that.

24 You had mentioned, for instance, that--I think it  
25 was Marcella that mentioned that some districts with a

1 proportionate share of funds may only offer, for instance,  
2 speech-only services. So if you have a student or if you have  
3 a child with a disability who may not need speech or who have  
4 different needs, who might need occupational therapy or may  
5 have a different need, then that alone--if you know the  
6 district for the last 5 years has only been providing speech  
7 services, you may decide, well, there's no reason to go  
8 through the formal, this whole process of having, you know  
9 public school officials come into my child's classroom,  
10 monitor my child, evaluate my child, if again--if you know at  
11 the end of the day that that district, what they're offering  
12 in the proportionate share for private school children placed  
13 by their families isn't going to even be able to offer what  
14 your child needs.

15           You also--somebody also mentioned that oftentimes,  
16 even if your child is eligible, the services that are going to  
17 be offered by that public school district occur in the actual  
18 public school. So, again, that's been a big hindrance  
19 historically for our parents to even go and get children  
20 evaluated because they often know they're working during the  
21 day. They're tied up, and the transportation is relying on  
22 the parent. So if you want to even take advantage of ISP  
23 services through the local public school district, many times,  
24 you have to come to the school, pick up your child, drive your  
25 child to that local public school, wait until the services are

1 finished, you know, take the child back to their private  
2 school.

3           So, again, if you know, for instance, transportation  
4 is a concern that you're not going to be able to do that,  
5 given your schedule, then that may be another reason why  
6 parents have foregone even going through, you know, again,  
7 this public evaluation process through the district.

8           Some parents may not want the public school to  
9 evaluate their child, for whatever reason, and some parents  
10 may already know their children have a disability. So they  
11 don't need the public school district to come and make a  
12 formal evaluation and a diagnosis because they've already gone  
13 through a private process and have that diagnosis and just  
14 plan on bringing them to a private school, anyway. So there  
15 may be no reason for them to, again, go through that public  
16 school Child Find process.

17           So I guess what I'm saying is there's a lot of  
18 reasons why a family may not go--may not have an IEP, if they  
19 haven't been in a public school, or may not go through that  
20 process.

21           And, you know, our system of schools has a process.  
22 We call them ICEPs. They're Individual Catholic Education  
23 Plans. It's a very formalized process. We have what are  
24 called SAC teams. That stands for Student Assistance Teams.  
25 They're made up of usually the school counselor, resource



1 teachers, counselors, the principles, and similar to an IEP  
2 process, when a family comes into the school and needs  
3 accommodations or needs special education, special instruction  
4 for their child, in addition to the classroom instruction,  
5 families have to bring supporting documentation. That might  
6 be a medical evaluation. That might be a psycho-ed evaluation.  
7 There's a number of different documents that they're required  
8 to come and prove the diagnosis of a disability. Oftentimes  
9 that's a private diagnosis that's been made.

10           And then we take that documentation that the family  
11 brings in, and we create what's called this ICEP plan for  
12 them, which includes outlines, what the school provides, what  
13 accommodations will provide, whether that be physical  
14 accommodations, whether it be lesson plan accommodations.  
15 There's a number of different things that we can do to  
16 accommodate students with special needs.

17           MR. GALLAGHER: Brian, I'm sorry. Brian, just thank  
18 you.

19           Did you want to summarize very briefly?

20           MR. RADZIWILL: [via telephone] Yeah. I was just  
21 going to say there's a lot of kids. If you go with the  
22 definition of being eligible for IEP or ISP only, I think  
23 you're going to miss a big population of students who are  
24 students with disabilities, but they haven't been diagnosed by  
25 the public school district.

1 MR. GALLAGHER: Okay. Thank you. Thank you very  
2 much for that feedback.

3 The special ed issue is a complicated and nuanced  
4 one, which the Board discussed at length at the beginning of  
5 the meeting. You know, this is the first time that the  
6 special ed issue has really come into the BOOST discussion  
7 because of the most recent budget language, and your feedback  
8 is very much appreciated and will be helpful as we formulate  
9 our plan for going forward right now, so thank you.

10 MR. RADZIWILL: [via telephone] Thank you.

11 MR. GALLAGHER: Garrett, did you have something you  
12 wanted to say?

13 MR. O'DAY: Yes, just briefly to piggyback on what  
14 Brian was saying. You know, for the record, Garrett O'Day  
15 with Maryland Catholic Conference, and on behalf of myself and  
16 [inaudible] for Maryland [inaudible] School Coalition.

17 Our thoughts are just--suggest keeping in mind that  
18 the budget language generally with regard to special needs  
19 provides that the money goes toward this extra \$600,000 toward  
20 higher scholarships for students with special needs. It just  
21 makes a general designation of special needs.

22 So our concern is kicking out any, you know, fourth  
23 category with regard to the--with the school itself to find  
24 the special needs based on the needs of the child, which is,  
25 you know, the point of this program, would probably do a

1 disservice. We're worried a little bit about that that 235  
2 kids, I think it was, that are designated right now as special  
3 needs could become 35 if you kick out that fourth category.  
4 By only limiting it to IEPs or ISPs, you're limiting really to  
5 what I believe is about 13 different categories of disability  
6 that are covered by IDEA. I think that's what it is. Correct  
7 me if I'm wrong, Alan. It's something like that. And a lot  
8 of the schools make determinations beyond that.

9           One other thing is, too, I feel that we can't act as  
10 if the funding provided through IDEA or through equitable  
11 services through the LEA is easy to get. Kids are routinely  
12 denied because either they just can't accommodate for the  
13 public school or the LEA school fund, unable or only to  
14 accommodate--or the money is not there. It's not available.

15           So, as what Brian was saying, a lot of students,  
16 their parents will circumvent that process, or if they have a  
17 disability that's outside of IDEA, they will go to the  
18 non-public school that suit their needs. And that's what, you  
19 know, the purpose, I think, of the program is, to expand those  
20 options and maintain those options.

21           The last thing I'll note is that I think--and  
22 correct me if I'm wrong. I think the legal history of  
23 nonpublic placement as a separate entity, you know,  
24 subcategory in and of itself was, you know, from a  
25 historical--historically, legally--historically schools not

1 being able to accommodate in the public schools and parents  
2 going and placing their kids in non-public schools and then  
3 essentially asking for reimbursement for that tuition under  
4 IDEA, and that's what's happened historically.

5           So I agree with Dr. Grasmick. That is kind of  
6 outside of this consideration, but that is the purpose of the  
7 fact that they have non-placement even within IDEA, so we'd  
8 ask you to basically consider having a category, that fourth  
9 category where, you know, the schools and parents can make the  
10 determination about what general special needs is. And  
11 I--my--our opinion is it would still be compliant with the  
12 statutory--or the budget language as it's written.

13           That's all. Thank you.

14           MR. GALLAGHER: Thanks.

15           Any other public comments?

16           [No audible response.]

17           MR. GALLAGHER: Motion to adjourn?

18           ATTENDEE: So moved.

19           ATTENDEE: Second.

20           MR. GALLAGHER: All in favor? Aye.

21           [Chorus of ayes.]

22           MR. GALLAGHER: Thank you.

23           [End of recorded session.]

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CERTIFICATE OF TRANSCRIPTIONIST

I, Jennie Malloy, do hereby certify that the foregoing proceeding was transcribed from a digital recording provided to me by Alliance Defending Freedom and thereafter was reduced to typewriting by me or under my direction. 1.

There was no court reporter present at the proceedings, and the speaker identities were not provided to me; thus, I identified the speakers to the best of my ability, though I cannot verify the accuracy of the speaker identification since I was not present.

I am not related to any of the parties in this matter, and this transcript is a true and accurate record of said digital audio recording to the best of my ability.

The above information has been transcribed by me with a pledge of confidence, and I do hereby certify that I will not discuss or release the content or any information

9/12/2019

**X** Jennie Malloy

**X**

Jennie Ann Malloy

Jennie Ann Malloy

Signed by: Malloy

Jennie Malloy, Transcriptionist  
Malloy Transcription Service

# **EXHIBIT 44**



**Karen B. Salmon, Ph.D.**  
State Superintendent of Schools

August 8, 2018

Clair Dant, Principal  
Bethel Christian Academy  
8455 Savage-Guilford Rd.  
Savage, MD 20763

Dear Ms. Dant,

At its June 21, 2018 meeting, the BOOST Advisory Board determined that the following statement in Bethel Christian Academy's handbook violated the nondiscrimination clause contained in the BOOST law:

"Bethel Christian Academy supports the biblical view of marriage defined as a covenant between one man and one woman, and that God immutably bestows gender upon each person at birth as male or female to reflect His image. (Gen. 1:27 Gen: 2:23-24). Therefore, faculty, staff, and student conduct is expected to align with this view. Faculty, staff, and students are required to identify with, dress in accordance with, and use the facilities associated with their biological gender."

The Board concluded that a handbook recipient may reasonably view this statement, on its face, as a prohibition on students with a non-heterosexual identity because it expects all students to align their conduct to the view of marriage as a covenant between one man and one woman (i.e., heterosexual). A non-heterosexual student may reasonably view the policy as one that allows denial of admission or discipline or expulsion on the basis of his or her sexual orientation. Therefore, the Board concluded that this policy, on its face, was in conflict with the nondiscrimination clause contained in the BOOST law.

In reaching this decision, the Board recognized the specific non-discrimination in admissions provision that the Maryland General Assembly added to the BOOST law to assure that public funds would not be available to schools that had admissions policies that were discriminatory. In reviewing the school's admission policy, the Board did not pass judgment on religious principles, which is not the Board's role. The Board applied the following principles in making its decision:

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;

BOOST Letter to Bethel Christian Academy – Savage

August 8, 2018

Page 2

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.

Although our decision was not favorable to Bethel Christian Academy, the Board wishes Bethel Christian Academy and its students success in the upcoming school year.

Sincerely,

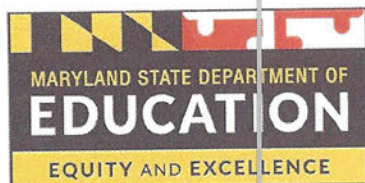
A handwritten signature in black ink that reads "Matthew D. Gallagher". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Matthew Gallagher  
Chair, BOOST Advisory Board

cc: BOOST Advisory Board  
State Board Members  
Karen B. Salmon, Ph.D.  
Amalie Brandenburg  
Monica Kearns  
William Reinhard  
Gayle Secrist  
Elizabeth M. Kameen



# **EXHIBIT 45**



**Karen B. Salmon, Ph.D.**  
State Superintendent of Schools

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## CERTIFIED MAIL

December 12, 2018

Claire Dant, Principal  
Bethel Christian Academy  
8455 Savage – Guilford Road  
Savage, MD 20763

Dear Principal Griffin:

A letter dated August 8, 2018 from the BOOST Advisory Board notified you of the Board's June 21, 2018 determination that the Bethel Christian Academy student handbook contained statements that violated the non-discrimination in admission requirement set forth in the BOOST 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 your school from the BOOST program for the 2018-2019 and 2019-2020 school years.

The BOOST Advisory Board voted to enforce the BOOST statute to require schools that had discriminatory admissions policies and accepted BOOST scholarship funds to reimburse MSDE for those funds. Our records indicate that for the 2016-2017 school year, your school had 17 awardees with a total scholarship value of \$46,800 and for the 2017-2018 school year, your school had a total of 18 awardees with a total scholarship value of \$55,800. The total amount of BOOST Scholarship funds distributed parents and Bethel Christian Academy is \$102,600.

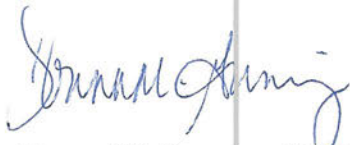
This letter and the attached invoice provide notice that payment of the above described debt is due and owing. As a reminder, pursuant to the law, the school may not charge the student tuition and fees to replace the BOOST Scholarship funds that the school is ineligible to receive.

A check in the full amount should be made payable to the Maryland State Department of Education and mailed to: MSDE, 200 W. Baltimore St, 2<sup>nd</sup> Floor Accounts Receivable, Baltimore MD 21201.

Ms. Claire Dent  
December 10, 2018  
Page Two

If the school can demonstrate that it is financially unable to pay this indebtedness in one lump sum, payment in installments may be arranged. Please contact Kausar Syed at 410-767-7420 or [kausar.syed@maryland.gov](mailto:kausar.syed@maryland.gov) by **January 15, 2019** to discuss possible installment payments.

Sincerely,



Donna M. Gunning, Executive Director  
Office of Policy and Fiscal Analysis

c: Valerie Carpenter  
Kausar Syed

# **EXHIBIT 46**



**Karen B. Salmon, Ph.D.**  
State Superintendent of Schools

February 28, 2019

Claire Dant, Principal  
Bethel Christian Academy  
8455 Savage-Guilford Road  
Savage, Maryland 20763

Dear Ms. Dant:

This responds to your e-mail dated February 3, 2019, following up on the letter you received from the BOOST Program in December 2018. In your e-mail, you stated that Bethel Christian Academy had only recently opened the letter, and that its Board of Directors would need some time to respond. In the meantime, I want to provide you with some additional information that may be helpful. Bethel Christian Academy is currently ineligible for the BOOST Program due to language in its student handbook that contradicted the nondiscrimination requirements in the BOOST law. As a result, the school has been invoiced for BOOST scholarship funds received while its student handbook contradicted the nondiscrimination requirements.

To the extent Bethel Christian Academy decides to revise the language in its student handbook, please know that the BOOST Advisory Board has restored the eligibility of schools for the BOOST Program on that basis. It is therefore possible that Bethel Christian Academy could regain its eligibility to participate in the BOOST Program during the upcoming 2019-2020 school year. This, of course, remains contingent on the school's meeting all eligibility requirements contained in the relevant BOOST law, which governs operation of the BOOST Program and places conditions on expenditure of funds during the applicable fiscal year.

To the extent Bethel Christian Academy is finding it difficult to reimburse BOOST scholarship funds received in the 2016-2017 and 2017-2018 school years, the Board recently decided that it would offer schools the option to utilize a prospective payment plan to accomplish the required payment. If you have your eligibility for the BOOST Program restored as noted above, this would effectively allow the school to pay down the amount owed at the same time it is receiving new BOOST scholarship awards. Please know, however, that students must still be credited for the full value of their awards.

Looking ahead, the BOOST Program can offer payment plans for three years or less, which incur no fee. The Board is willing to consider authorizing payment plans for four years or longer, but be aware that such plans must be arranged with the Maryland Central Collection Unit and may incur a collection fee. I have enclosed a sample three-year repayment agreement for your consideration. You may suggest other payment options on behalf of your school, which the BOOST Program will consider in light of their reasonableness and practicality.

Claire Dant  
February 28, 2019  
Page 1

If you would like to discuss student handbook revisions that have previously been upheld by the Board, or are interested in beginning the process of arranging for a payment plan, please contact me by phone at 410-767-0757 or by e-mail at [donna.gunning@maryland.gov](mailto:donna.gunning@maryland.gov), within 30 days of the date of this letter.

Sincerely,

Donna Gunning  
BOOST Program Executive Director

Cc: BOOST Advisory Board  
Elizabeth Kameen

# **EXHIBIT 47**

**From:** Matt Gallagher <matt@goldsekerfoundation.org>  
**To:** laurie@goldsekerfoundation.org  
**Subject:** ACLU / Tweet  
**Date:** Fri, 23 Mar 2018 15:25:37 -0400

---

Thanks for passing that along.

FYI - I've been speaking to Liz Bowie at The Sun about these issues.

Liz has been relying on the Huffington Post's National reporting to identify potentially problematic schools that might be running afoul of MD's laws regarding discrimination in admissions/enrollment and has more recently picked up on this particular issue. Liz hasn't (yet) been able to verify that any MD nonpublic (ie, private) schools receiving text book funding (a separate program) or BOOST funding (the scholarship program) actually use these text books.

Of the schools listed in the MSEA piece, we've already kicked some of those schools out of the BOOST scholarship program for their discriminatory policies. Unfortunately, if an actual/specific textbook-related complaint comes forward, it's doubtful we'll (on the BOOST scholarship program side) have any grounds to act.

Sent from my iPhone

**Exhibit**  
119



# **EXHIBIT 48**

**From:** Matt Gallagher <matt@goldsekerfoundation.org>  
**To:** Linda Eberhart <linda.eberhart45@gmail.com>  
**Subject:** Re: Colo., Md. gay rights cases have important differences  
**Date:** Wed, 17 Jul 2019 08:53:35 -0400

---

We're fortunate that Andy Green and the Editorial Board have been following BOOST very closely. The editorial provides a lot of important context.

Sent from my iPhone

> On Jul 17, 2019, at 7:44 AM, Linda Eberhart <linda.eberhart45@gmail.com> wrote:  
>  
> [http://digitaledition.baltimoresun.com/infinity/article\\_share.aspx?guid=770363ad-e3a8-46a2-8923-8e5151c4c8e3](http://digitaledition.baltimoresun.com/infinity/article_share.aspx?guid=770363ad-e3a8-46a2-8923-8e5151c4c8e3)  
>  
> Matt —  
> Looks like you have been working behind the scenes to get this editorial printed. Says everything that is needed to be said. Thanks  
>  
> Linda

**Exhibit**  
48

# **EXHIBIT 49**



Deposition of:  
**Nancy Grasmick, Ed.D.**

*April 26, 2021*

In the Matter of:

**Bethel Ministries, Inc vs Salmon, et al**

Veritext Legal Solutions

800-734-5292 | [calendar-dmv@veritext.com](mailto:calendar-dmv@veritext.com) |

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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 NANCY S.  
GRASMICK, Ed.D., was taken on Monday, April 26,  
2021, commencing at 9:30 a.m., at 605 Brightwood  
Club Drive, Lutherville, Maryland, before Michele  
D. Lambie, RPR, a Notary Public.

Reported By: Michele D. Lambie, RPR-CSR

1 APPEARANCES:

2 On behalf of the PLAINTIFF:

3 PAUL DANIEL SCHMITT, ESQUIRE

4 pschmitt@adflegal.org

5 RYAN J. TUCKER, ESQUIRE

6 rtucker@adflegal.org

7 JACOB REED, ESQUIRE

8 Jreed@adflegal.org

9 Alliance Defending Freedom

10 440 First Street NW, Suite 600

11 Washington, D.C. 20001

12 (480) 444-0020

13 On behalf of the DEFENDANT:

14 ROBERT A. SCOTT, ESQUIRE

15 Assistant Attorneys General

16 200 Saint Paul Place, 20th Floor

17 Baltimore, MD 21202

18 rscott@aog.state.md.us

19

20 ALSO PRESENT: Ms. Eliza Spikes - Videographer

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EXAMINATION INDEX

WITNESS: NANCY GRASMICK, Ed.D.

BY MR. REED

6

EXHIBIT INDEX

(Attached to Transcript.)

MARKED

NANCY S. GRASMICK, Ed.D.

Exhibit 93 Broadening Options and 53  
Opportunities for Students Today  
Advisory Board Meeting  
Minutes - October 11, 2017

Exhibit 94 Minutes of the Maryland State 71  
Board of Education dated August  
24, 2010

Exhibit 100 Bethel Christian Academy 86  
Parent/Student Handbook 2020-2021

1 P R O C E E D I N G S

2 THE COURT REPORTER: The attorneys  
3 participating in this deposition acknowledge that I  
4 am not physically present in the deposition room,  
5 and that I will be reporting this deposition  
6 remotely.

7 They further acknowledge that in lieu of  
8 an oath administered in person, I will administer  
9 the oath remotely.

10 If any party has an objection to this  
11 manner of reporting, please state now.

12 (No response.)

13 THE COURT REPORTER: Hearing none, we can  
14 proceed.

15 THE VIDEOGRAPHER: Good morning. We are  
16 going on the video record at 9:30 a.m. on Monday,  
17 April 26th, 2021.

18 This is media unit number one in the  
19 video-recorded deposition of Ms. Nancy Grasmick  
20 taken in the matter of Bethel Ministries, Inc. vs.  
21 Salmon, et al. filed in the United States District



1 Court for the District of Maryland, Northern  
2 Division, Case Number 1:19-cv-01-853.

3 This deposition is being held via Zoom.  
4 My name is Eliza Spikes from Veritext, and I am the  
5 videographer. The court reporter today is  
6 Ms. Michele Lambie from Veritext.

7 I'm not authorized to administer the  
8 oath. I'm not related to any party in this action  
9 nor am I related -- nor am I financially interested  
10 in the outcome.

11 Counsel and all present in the room and  
12 anyone attending remotely will now state their  
13 appearances and affiliations for the record.

14 If there are any objections to this  
15 proceeding, please state them at the time of your  
16 appearance, beginning with the noticing attorney.

17 MR. REED: Good morning. Jacob Reed for  
18 the Plaintiff Bethel Ministries with Paul Schmitt  
19 and Ryan Tucker observing.

20 MR. SCOTT: Good morning. This Robert  
21 Scott, Assistant Attorney General, on behalf of the

1 Defendants in this case, including the witness,  
2 Dr. Grasmick.

3 NANCY S. GRASMICK, Ed.D.,  
4 the Deponent, called for examination via Zoom by  
5 the Plaintiff, being first duly sworn to tell the  
6 truth, the whole truth, and nothing but the truth,  
7 testified as follows:

8 EXAMINATION

9 BY MR. REED:

10 Q. Good morning, Dr. Grasmick. My name is  
11 Jacob Reed. I am one of the attorneys representing  
12 Bethel Ministries in this case. Can -- can you  
13 hear me?

14 A. I can hear you fine.

15 Q. Okay. Good. Good. Well, good morning,  
16 and thank you for being available this morning. I  
17 appreciate it.

18 Just a few housekeeping things before we  
19 get into the nuts and bolts of things. Because  
20 this is on a video, it's a little bit different  
21 than how we usually do things.

1           You know, normally we'd be sitting around  
2 a table, and it would -- it would be a little  
3 easier to interact, to hand you documents and that  
4 sort of a thing, so I will ask, is there anyone in  
5 the room with you?

6           A.    No.

7           Q.    Okay.  And I'll -- I'll just ask, if  
8 anyone comes into the room for any reason, please  
9 just let us know, and -- and the reason being, you  
10 know, we just want to make sure that the answers  
11 you give are your answers, and you're not receiving  
12 any help or assistance or -- or that sort of thing,  
13 okay?

14          A.    I understand.

15          Q.    Thank you.  And along with that, do you  
16 have any notes, note pads or -- or legal pads or  
17 anything out in front of you?

18          A.    I do not.

19          Q.    Okay.  A cell phone?

20          A.    No.  It's -- it's in the room, but it's  
21 distanced from me.

1 Q. Okay. That's fine. No, no worries. And  
2 then on your screen, am I the only thing on your  
3 computer screen or do you have email pulled up or  
4 anything else?

5 A. I don't have emails pulled up. I only  
6 have evidence of the people who are participating  
7 today.

8 Q. Okay. So, just -- just what you see on  
9 the Zoom call?

10 A. Correct.

11 Q. Okay. Very good. All right. So, I'll  
12 do a little background info, and then we'll get  
13 into it.

14 Can you just state your name, your full  
15 name for the record and spell it, please?

16 A. Yes. It's Nancy, N-A-N-C-Y, Grasmick,  
17 G-R-A-S-M-I-C-K.

18 Q. And where do you live, Dr. -- and is it  
19 okay if I address you as Dr. Grasmick?

20 A. That's fine.

21 Q. Okay. Can you tell us where you live?

1           A.     Sure.  I live at 605 Brightwood Club  
2     Drive, and that is in Lutherville, Maryland 21093.

3           Q.     And is that where you currently are?

4           A.     Yes, that is where I am currently.

5           Q.     Okay.  Good.  And I'll -- I'll  
6     state -- so, my name is Jacob Reed.  You can call  
7     me Jake.  Feel free to address me as Jake, and if  
8     at any time you need a break during the deposition,  
9     please just let us know.

10           I'm sure we'll probably take one break,  
11     and I don't think we'll go past lunch, but  
12     if -- you know, you need to use the restroom or  
13     anything, just -- just let me know.

14           A.     Thank you.

15           Q.     And I'll also note I'm going to be  
16     pulling up some documents as we go through this,  
17     and because it's virtual, it's a little bit  
18     different.  You know, if we were in person, I would  
19     just hand you the document, and it would be pretty  
20     smooth and easy to do, but here, because we're on  
21     the computer, I'm going to have to actually share

1 my computer screen, and then you'll see it on your  
2 end.

3 A. Right.

4 Q. And with that, it makes it a little  
5 difficult, because if I'm asking you to review  
6 something or to read it, you might need me to  
7 enlarge it or scroll, and if that's the case,  
8 please just let me know. If you need me to scroll  
9 down or zoom in on something, just let me know, and  
10 I'll -- and I'll be happy to do that.

11 A. Thank you.

12 Q. Absolutely. Okay. Can you just give me  
13 a little bit of your educational background, where  
14 you went to school, college, where at and  
15 what -- what degree you received?

16 A. Certainly. I went to Towson University  
17 for my undergraduate work. I received a Bachelor's  
18 of Science in education. I went to Gallaudet  
19 University for the Deaf in Washington, D.C. I  
20 received a master's degree, and I went to Johns  
21 Hopkins University for my doctorate.

1 Q. And when did you receive your doctorate?

2 A. 1978.

3 Q. Okay. Now, after you received your  
4 doctorate, can you just give me a little bit of  
5 your professional background? I know, you know,  
6 there -- you, obviously, have an extensive work  
7 history, so if you could just kind of give me  
8 approximate dates and -- and where you worked.

9 A. Sure. I started my teaching career in  
10 1961 at the William S. Baer School for children  
11 with disabilities in Baltimore, Maryland.

12 I then in about '63/'64 went to Baltimore  
13 County, where I worked in another school, Woodvale  
14 School, for children with disabilities. Then I  
15 went to the central office in Baltimore County and  
16 had a variety of positions there, ending in being  
17 the Associate Superintendent for administration and  
18 then Associate Superintendent for curriculum and  
19 instruction.

20 I then was appointed by the Governor to  
21 be the Secretary of the Office for Children, youth

1 and Families in -- in the state of Maryland and  
2 then became 1991 the State Superintendent of  
3 Schools until 2011.

4 Q. Okay. And -- and how about after 2011?

5 A. Then I became a Presidential Scholar at  
6 Towson University, and I'm still there. And I also  
7 became the head of -- the Director of the  
8 department at the Kennedy Krieger Institute for  
9 teachers in -- in the area of neurology.

10 Q. Okay. Thank you. Now, I meant to ask  
11 this earlier, but I forgot. So, have you ever been  
12 involved in a lawsuit before?

13 A. Oh, yes. I was very involved in the  
14 lawsuit in terms of services denied to children  
15 with special needs in Baltimore City, which was a  
16 federal suit, and also for a short period of time,  
17 before it was woven into the federal suit, a state  
18 suit on funding for students in Baltimore City.

19 Q. And in what capacity were you involved?  
20 Were you a party to those lawsuits?

21 A. I actually entered the state of Maryland



1 as a defendant with the City school system because  
2 I felt that they needed our support to be able to  
3 remedy the problems in the City. So, I was, in a  
4 sense, a defendant in that federal suit.

5 Q. Did you have your deposition taken in  
6 that case?

7 A. I did.

8 Q. Okay.

9 A. I also testified in the trials.

10 Q. Okay. So, this is not particularly new  
11 to you. You've kind of gone through this process a  
12 time or two before; is that -- is that correct?

13 A. Correct.

14 Q. Okay. All right. So, let's talk about  
15 the BOOST Program, which is why we're here today.

16 So, can you just tell me when you were  
17 appointed and by whom to the BOOST Advisory Board?

18 A. I was recommended for the BOOST Advisory  
19 Board by the former President of the Senate,  
20 Michael Miller, and I served on it since  
21 their -- its inception. I believe it was 2016.

1 Q. Okay. Now, before you were appointed to  
2 the BOOST Advisory Board, in fact, before the  
3 program was implemented, were you involved at all  
4 in the legislation that created BOOST or the  
5 process to establish BOOST, the BOOST Program?

6 A. No.

7 Q. You were not?

8 A. I was not, no. I -- I was not involved  
9 in the legislation. I left the position in the  
10 state in 2011.

11 Q. Okay. Were you aware of the BOOST  
12 Program before it -- the bill passed and was  
13 established? Had you heard about it?

14 A. Only vaguely.

15 Q. Okay. So, you were appointed in its  
16 inception in 2016. Can you just tell me a little  
17 bit about how the program operated that first year?

18 A. Well, basically, like most new programs,  
19 establishing procedures, certainly board members  
20 beginning to interact with themselves and also with  
21 the Department and State Department of Education.

1 So, there were a lot of procedural things that had  
2 to be developed and understood, and so a lot of  
3 time was spent in terms of those kinds of  
4 discussions.

5 Q. And did the -- the board -- and when I  
6 refer to the board, I'm referring to the BOOST  
7 Advisory Board. Did the board meet regularly? Did  
8 it have scheduled meetings?

9 A. It did. It -- it met on a fairly regular  
10 basis, but much of it was determined by the  
11 magnitude of the work that had to be done and the  
12 specific dates of importance.

13 Q. Okay. So, in -- in getting the BOOST  
14 Program up and running, you worked a lot with the  
15 Maryland State Department of Education?

16 A. Yes, because they provided the staff.

17 Q. Okay. And so during the first year, how  
18 did the BOOST Board or MSDE determine, you know,  
19 who might be eligible for the program and what  
20 schools might want to participate?

21 A. There were basically guidelines that were

1 required. Certain guidelines related to the  
2 funding of the families, their income  
3 consideration, whether or not the student was  
4 leaving a public school to go to a BOOST school  
5 that was considered eligible, and so there  
6 were -- there were guidelines that had been  
7 established.

8 Q. Who established those guidelines?

9 A. Well, part of it was from, as I recall,  
10 from the legislation that was passed, and certainly  
11 the parameters regarding the income of the family  
12 were very clear. They weren't going to give money  
13 to people who had more affluence, and the  
14 eligibility of the school at that time. So, yeah,  
15 there were guidelines, and there was an  
16 interpretation of those guidelines.

17 Q. By the BOOST Board, the interpretation?

18 A. Of the legislation and of the -- the  
19 continuing examination by the General Assembly of  
20 compliance.

21 Q. Okay. Now, when you say compliance, are

1 you referring to complying with the BOOST law or  
2 can you explain that a little bit?

3 A. I'm just telling you that there were  
4 certain guidelines that we had to follow, and the  
5 General Assembly, because it was a contro- --  
6 somewhat controversial bill in enacting this, that  
7 they had an interest in what happened and wanted to  
8 be sure that the expectations were met.

9 Q. Okay. Now, you mentioned it was somewhat  
10 of a controversial bill or program. Can -- can you  
11 expound on that a little many little bit?  
12 Why -- why was it so controversial?

13 A. I wouldn't say so controversial, but I  
14 would say that there's always -- I mean,  
15 historically there's always a sort of split between  
16 people who feel public money should be used only  
17 for public schools and people who feel that  
18 deserving children, regardless of where they  
19 attend, should be able to have support from the  
20 state, so, that's -- that's -- that's a typical  
21 position.

1 Q. Sure. Okay. So, who were the  
2 beneficiaries of the BOOST Program primarily? Who  
3 benefited from it as far as the students? What  
4 dynamic?

5 A. Basically --

6 MR. SCOTT: Objection to form. You can  
7 answer. You can answer, Dr. Grasmick.

8 THE WITNESS: Basically, poor children  
9 who either were not making progress in public  
10 schools or would not have been able to -- to  
11 attend, perhaps, a school of their choice or their  
12 family's choice without this additional support.

13 BY MR. REED:

14 Q. Okay. Okay. So -- so, the program was  
15 up and running throughout 2016 and '17. You  
16 said -- you said -- you mentioned the board had to  
17 establish procedures, kind of getting things off  
18 the ground, and then come 2017, there were some  
19 complaints about certain schools and complying with  
20 the BOOST law, do you recall that?

21 A. Yes.

1 Q. Okay. Do -- do you recall the -- let me  
2 rephrase that.

3 Do you recall the first school that kind  
4 of was -- complained about for not complying with  
5 the BOOST law?

6 A. I really don't recall. There were  
7 several, but I don't recall who was first.

8 Q. Okay. Can you just kind of give me your  
9 recollection of the first complaints, how you found  
10 out about it, how the board proceeded? Just  
11 explain that a little bit.

12 MR. SCOTT: Objection to form. You can  
13 answer.

14 THE WITNESS: It was brought to our  
15 attention that there were -- there was the  
16 potential of some discriminatory practices or  
17 language and that it was incumbent upon us to look  
18 into that and at least certainly have the staff  
19 look into it.

20 BY MR. REED:

21 Q. Okay. You mentioned discriminatory

1 practices or language. Discriminatory in what  
2 respect?

3 A. Sexual orientation.

4 Q. So, the complaint was schools were  
5 discriminating based on sexual orientation?

6 A. And that there was admission language  
7 that needed to be examined, and subsequently that  
8 language, even after admissions, needed to be  
9 looked at.

10 Q. Okay. Do you know what the BOOST, the  
11 Budget Bill that established BOOST, the  
12 requirements were as far as discrimination  
13 practices?

14 A. I -- I don't understand your question.

15 Q. Okay. I'll rephrase it. So, in 2017  
16 when these complaints first came about, were you  
17 aware of the BOOST law and the requirements that it  
18 had with regards to nondiscrimination?

19 A. Sexual discrimination, was I aware?

20 Q. Yeah. Were you aware what the law  
21 required is -- is what I'm asking?



1 A. I think I was generally aware; yes.

2 Q. Okay. And what was your understanding of  
3 that law in 2017?

4 A. It -- it had to do with admissions and  
5 then subsequently became more specific in terms of  
6 after admissions in not discriminating based on  
7 sexual orientation and also any language in the  
8 handbook for admissions indicating things that  
9 would be contrary to acceptance of diverse sexual  
10 orientation.

11 Q. So, I'm going to share my screen and pull  
12 up a document here. It takes just a minute  
13 to -- to do this, so bear with me.

14 Okay. Can you see my screen here?

15 A. I can.

16 Q. Okay. And -- and I've marked this  
17 document Exhibit 31, and it is Bates stamped 0058,  
18 which was Exhibit 2 to Plaintiff's Motion for  
19 Preliminary Injunction.

20 And I'll add, Dr. Grasmick, so when I  
21 introduce documents, I'm kind of going to go

1 through this rigamarole of identifying the  
2 documents, and that's just so the record is clear,  
3 because if someone is reviewing the -- the  
4 deposition after the fact, they have to know which  
5 documents we're referring to. So, it's a little  
6 tedious, but just bear with me as I identify the  
7 documents.

8 Okay. Is that large enough on your  
9 screen?

10 A. It is.

11 Q. Okay. And do you -- do you know what  
12 this document is?

13 A. It's the Budget Bill.

14 Q. Okay. And it's House Bill 150, correct?

15 A. Yes.

16 Q. From Fiscal Year 2018, correct?

17 A. Um-hum.

18 Q. Okay. And, again, I just do that to  
19 identify the document.

20 Now, in -- in 2017, so when the  
21 complaints first arose, had you looked at this

1 Budget Bill before or at that time?

2 A. I'm -- I'm sorry, I can't -- I don't  
3 recall whether I've looked at it or not, no.

4 Q. Okay. That's fine. So, I'm going to  
5 scroll down to the language that established the  
6 BOOST Program, and I'm on Bates stamped 0061. Can  
7 you see right here where I've highlighted,  
8 R00A03.05 (indicating)?

9 A. Um-hum.

10 Q. Okay. Had you seen this language before  
11 or during, in the time period of 2017?

12 A. Well, it was one of our guidelines,  
13 obviously, for children who are on free or reduced  
14 lunch. Yeah, absolutely.

15 Q. Okay. So -- so, you did see this.

16 A. That part of it I knew. Whether I saw it  
17 there or I saw it through -- knew it through the  
18 discussions that took place, I was aware of this.

19 Q. Okay. And are these the guidelines  
20 you're referring to? It says the Maryland State  
21 Department of Education shall administer the grant

1 program in accordance with the following  
2 guidelines, and then it lists?

3 A. Um-hum.

4 Q. Are these the guidelines you were -- were  
5 referring to previously?

6 A. Well, they're certainly some of them that  
7 I was referring to.

8 Q. Okay.

9 A. Yeah.

10 Q. So, it says here under subsection (1) To  
11 be eligible to participate in the BOOST Program, a  
12 nonpublic school must: And then it sets out  
13 certain -- certain, I guess, guidelines that had to  
14 be met, correct?

15 A. Yeah.

16 Q. Now, were there any other  
17 guidelines -- well, let me -- let me back up.

18 So, for a school to participate, for a  
19 nonpublic school to participate in the BOOST  
20 Program, were there any other guidelines besides  
21 these guidelines that they had to comply with?

1 MR. SCOTT: Dr. Grasmick, --

2 THE WITNESS: Yeah.

3 MR. SCOTT: -- if you need to see -- if  
4 you need to see the entire page or the entire  
5 document before you answer, just speak up.

6 THE WITNESS: Yeah, I would -- I would  
7 like you to keep scrolling up.

8 BY MR. REED:

9 Q. Yeah, that's fine. Why don't we do this:  
10 Take a minute, look these at guidelines. If you  
11 need me to scroll, just let me know, and  
12 when -- when you're done, we can -- we can talk  
13 about it. So, just let me know when you need me to  
14 scroll.

15 (Whereupon, there was a pause for  
16 document examination.)

17 THE WITNESS: You can scroll.

18 (Whereupon, there was a pause for  
19 document examination.)

20 THE WITNESS: Okay. Continue to scroll  
21 up.

1 (Whereupon, there was a pause for  
2 document examination.)

3 THE WITNESS: Okay. You can continue.

4 (Whereupon, there was a pause for  
5 document examination.)

6 THE WITNESS: Okay.

7 BY MR. REED:

8 Q. Okay. Are you done?

9 A. Yes, I think I'm done.

10 Q. Okay. Good. Thank you for that.

11 So, these were the guidelines as set out  
12 in the Budget Bill to participate in the BOOST  
13 Program, correct?

14 A. Yes.

15 Q. Now, apart from these four guidelines,  
16 were there any other guidelines that a school  
17 needed to comply with to participate in the BOOST  
18 Program?

19 A. Well, certainly what's required here had  
20 to be reflected in their handbook.

21 Q. Can you explain what you mean by that?

1           A.     Yes.    So, each school had a handbook that  
2           was reflective of their requirements to enter that  
3           school, and if those -- if that handbook was in  
4           conflict with what is stated here, and subsequently  
5           this was expanded, that was -- that required a  
6           serious review.

7           Q.     Can you show me in this Budget Bill  
8           language where it requires schools to change their  
9           handbook language?

10           MR. SCOTT:   Objection to form.

11           THE WITNESS:   I think for us, it was the  
12           articulation of the schools' positions on these  
13           areas.

14           BY MR. REED:

15           Q.     I'm going to highlight this section  
16           because this is kind of really what's at issue here  
17           (indicating).

18           A.     Um-hum.

19           Q.     And would you mind just reading that out  
20           loud for the record, please?

21           A.     Comply with Title VI of the Civil Rights

1 Act of 1964 as amended, Title 20, Subtitle 6 of the  
2 State Government Article, and not discriminate in  
3 student admissions on the basis of race, color,  
4 national origin, or sexual orientation. Nothing  
5 herein shall require any school or institution to  
6 adopt any rule, regulation, or policy that  
7 conflicts with its religious or moral teachings.

8 Q. Okay. Thank you. Now, that last  
9 sentence, that nothing herein shall require that  
10 you just read, --

11 A. Um-hum.

12 Q. -- what did you as a board member  
13 interpret that to mean?

14 MR. SCOTT: Objection. You can answer.

15 THE WITNESS: Basically, that the Civil  
16 Rights Act must be complied with, but in addition  
17 to that if it's a Jewish school, it doesn't require  
18 people to overtly believe in Christian principles.

19 If it's a Christian school, it doesn't  
20 require that school to change its position in terms  
21 of any of the Jewish teachings. So, teachings, but



1 it doesn't, in my opinion, and I think the opinion  
2 of the board, it doesn't supersede the Civil Rights  
3 Act requirements.

4 BY MR. REED:

5 Q. And just to be clear, the Civil Rights  
6 Act requirement and the BOOST law states that a  
7 school cannot discriminate in student admissions on  
8 the basis of race, color, national origin, or  
9 sexual orientation, correct?

10 A. Yes.

11 Q. Okay. So, what if a school -- so, you  
12 mentioned that -- that you interpreted this to mean  
13 that -- that schools had to change their handbook  
14 language to comply with this guideline, correct?

15 MR. SCOTT: Objection. Mischaracterizes  
16 prior testimony.

17 BY MR. REED:

18 Q. You can answer.

19 A. I think the handbook could not have  
20 anything in it that would be in conflict to the  
21 idea of the Civil Rights Act of base -- of

1 discrimination on the basis of race, color,  
2 national origin, or sexual orientation.

3 Q. And what handbook language would be in  
4 conflict with those requirements?

5 MR. SCOTT: Objection.

6 BY MR. REED:

7 Q. You can answer.

8 A. I think there are a variety of ways in  
9 which that can be in conflict. It cannot overtly  
10 say that they cannot discriminate on the basis  
11 of -- since we're focused on sexual orientation, of  
12 course, all of the other requirements, but  
13 certainly sexual orientation or it can continue in  
14 the handbook without overtly talking about sexual  
15 orientation, but talking about belief systems that  
16 would be in conflict.

17 Q. So, if a school had a belief that you  
18 said would be in conflict with the  
19 nondiscrimination requirements, that would violate  
20 this guideline; is that correct?

21 MR. SCOTT: Objection. Go ahead.

1 THE WITNESS: Yes, I believe it would.  
2 It's a further interpretation.

3 BY MR. REED:

4 Q. Okay. Now, what -- what if a school  
5 didn't have a handbook? Then what -- then what  
6 happened?

7 A. They would need to have -- they would  
8 need to develop some -- some declaration of  
9 their -- of their compliance with the Civil Rights  
10 Act. That -- that would communicate particularly  
11 to parents who are asking for the BOOST money to  
12 send their children, or child, to a particular  
13 school that would confirm both to the state and to  
14 the families that they do not discriminate on the  
15 basis of sexual orientation.

16 Q. Okay. So, I want to take a -- just a  
17 step back here to the origins of this I  
18 guess -- can we call it the handbook review  
19 process? Is that fair to you to call it that?

20 A. Yes.

21 Q. Okay.

1 A. Yes.

2 Q. Okay. So, the origins of this handbook  
3 review process, I'm going to pull up another  
4 document. Sorry for the delay. It's a little bit  
5 of a hassle to -- with these.

6 Okay. So, I'm showing you --

7 MR. REED: Was that background noise?

8 BY MR. REED:

9 Q. I'm showing you what's been marked  
10 Exhibit 84, and it's Bates stamped BETHEL  
11 DEFENDANTS1096.001, and it's marked at the top as  
12 an email from Monica Kearns to  
13 vplegislation@mdpta.org and dated Tuesday, October  
14 10th, 2017.

15 And -- and these are a little goofy  
16 because I don't know if you've printed out emails  
17 before, but they kind of run backwards, so  
18 the -- you know, the oldest one is at the bottom,  
19 and the most recent is at the top.

20 And we'll scroll through it here in a  
21 moment, but have you -- have you seen this before?

1 Does this look familiar, --

2 A. Yes.

3 Q. -- this email?

4 A. Yes.

5 Q. Okay. And -- and how do you recognize  
6 it?

7 A. I recognized it because ultimately it  
8 came to me through the member of the PTA, who  
9 was --

10 Q. And was that -- was that Mar- -- Marla  
11 Posey-Moss?

12 A. Right.

13 Q. Okay. So, I'm going to scroll down to  
14 the -- the bottom, which will be the -- is the  
15 oldest email.

16 A. Um-hum.

17 Q. And I'm on BETHEL DEFENDANTS1096.005 and  
18 .004. So, this is another email from vplegislation  
19 @mdpta.org dated May 9th, 2017, and then is this  
20 you, grasmick@kennedykrieger.org?

21 A. That is.

1 Q. Okay. So, this looks like an email to  
2 you on May 9th, 2017. Why don't you go ahead and  
3 review this, and I'll scroll if you need me to, and  
4 then -- and then we can discuss it.

5 (Whereupon, there was a pause for  
6 document examination.)

7 THE WITNESS: Okay.

8 (Whereupon, there was a pause for  
9 document examination.)

10 THE WITNESS: Okay.

11 (Whereupon, there was a pause for  
12 document examination.)

13 THE WITNESS: Um-hum.

14 (Whereupon, there was a pause for  
15 document examination.)

16 THE WITNESS: All right.

17 (Whereupon, there was a pause for  
18 document examination.)

19 BY MR. REED:

20 Q. Okay. Do you know who Marla Posey-Moss  
21 is?

1           A.    I spoke at an event, and apparently, she  
2           was in attendance. I could not -- I -- I have no  
3           relationship with the woman. I'll tell you I  
4           couldn't pick her out of a lineup.

5           Q.    Okay. That's fair. It looks like from  
6           the context it says, Thank you for speaking last  
7           night at -- is this the -- the event you were  
8           talking about?

9           A.    Yes.

10          Q.    Okay.

11          A.    I was a presenter.

12          Q.    Okay.

13          A.    Not on this topic.

14          Q.    Not on this topic, right. And Marla  
15          states, I really enjoyed seeing you, and I'm glad  
16          you remembered me as a 1998 Governor's Policy  
17          Fellow. So, it appears you had a conversation with  
18          her; is that correct?

19          A.    We -- we -- after presentation, people  
20          could -- we interacted with the audience. They  
21          could ask a question.

1 I -- I mean, obviously, we have plenty of  
2 Fellows that come during the summer, and she  
3 identified herself that way. I said, it's nice to  
4 see you. That's it.

5 Q. Okay. The two of you -- did the two of  
6 you discuss the BOOST Program?

7 A. We did not really, no. Not to my --  
8 I -- I do not recall that. That was not the topic  
9 of the evening.

10 Q. Okay. Do you recall receiving this  
11 email?

12 A. Let me just set the record straight on  
13 this one. I worked at Kennedy Krieger two days a  
14 week. During the period of time this would have  
15 been sent in May, I have these Fellows who study  
16 there, and I -- and they have internships, and I  
17 spend weeks of those two days visiting them in  
18 their internship assignments.

19 And so it is quite likely -- I mean, I  
20 don't even remember receiving this until it was  
21 brought to my attention, so I have to tell you



1 that, you know, the disparity in time is very  
2 understandable from my point of view.

3 Q. Okay. That's -- that's fair. Let me ask  
4 this: Do you know when this email was brought to  
5 your attention? Do you recall that?

6 A. I do not recall, no. And it could have  
7 been a secretary who said, Oh, you have these  
8 emails or -- or it could have or she could have  
9 made an outreach to at the time Monica Kearns.  
10 I -- I just don't know.

11 Q. Sure. And that -- that was sort of my  
12 next question, because if we scroll up here,  
13 we -- we're looking at an email on September 13th,  
14 2017 from vplegislation@mdpta.org, which is Marla  
15 Posey-Moss, and it's to Ms. Kearns, which I  
16 understand that to be Monica Kearns, correct?

17 A. Yes.

18 Q. And she forwards the email of May 9th,  
19 2017 to her. Do you -- do you know -- let me ask  
20 this: Did -- do you recall if you referred  
21 Ms. Posey-Moss to Monica Kearns?

1           A.    No.  I -- I -- I had no further  
2 interaction with her, not at all.

3           Q.    Okay.

4           A.    I'm sure it was -- you know, I'm sure if  
5 you looked up the BOOST Program, you'd find out who  
6 was the staff person, but I'm making an assumption.

7           Q.    Sure.  Okay.  Do you recall the school  
8 Trinity Lutheran?

9           A.    Yes, I do.  I mean, vaguely, yes.

10          Q.    Okay.  Tell me what you recall about that  
11 school.

12          A.    There was a question about their  
13 Admissions Policy, and there were several where  
14 there were questions about how they articulated  
15 their -- how they articulated their Admissions  
16 Policy, and from my recall, there was an  
17 opportunity for schools to make changes to their  
18 admissions policies to be in compliance with the  
19 requirements.

20          Q.    Okay.  So, let's talk about that a little  
21 bit.  Did -- did the BOOST Board -- so, the BOOST

1 Board at some point requested all of the handbooks  
2 from schools that participated in the program,  
3 correct?

4 A. Yes.

5 Q. Do you recall when that was?

6 A. No.

7 Q. Okay. Did the BOOST Board review  
8 handbooks?

9 A. The staff reviewed handbooks and  
10 brought -- as I recall, brought to our attention  
11 ones that appeared to be out of compliance.

12 Q. So, how was a school's handbook "out of  
13 compliance"?

14 A. Because it was not stated according to  
15 the Civil Rights Act overtly. The -- particularly  
16 with attention to the sexual orientation. It was  
17 not overtly stated that there was no discrimination  
18 based on sexual orientation.

19 Q. Now, did either the Civil Rights Act or  
20 the BOOST law, the Budget Bill require schools'  
21 handbooks to overtly state that they don't

1 discriminate in admissions based on sexual  
2 orientation?

3 MR. SCOTT: Objection.

4 BY MR. REED:

5 Q. You can answer.

6 A. That was an important consideration. It  
7 was important to the General Assembly, and it was  
8 important that it be -- that it be clear.

9 Q. Did the BOOST Board require schools'  
10 handbooks to have an overt statement that they  
11 don't discriminate in admissions based on sexual  
12 orientation?

13 A. I don't know what you mean by did we  
14 require it. There had to be some indication in the  
15 handbook that that was not -- that there was no  
16 discrimination, and that didn't -- it isn't just  
17 the statement. It's everything that followed the  
18 statement also.

19 So, if there's a covenant that talked  
20 about something that would be misaligned with that  
21 requirement, that was of concern.

1 Q. So, can you give me an example of  
2 something that would be misaligned with that  
3 statement?

4 A. I would say that in the case of Bethel  
5 saying that marriage is between one man and one  
6 woman and no statement saying we don't discriminate  
7 on the basis of sexual orientation, and I think  
8 after -- and -- and it became more profound with  
9 the General Assembly, because subsequently, it was  
10 also after admission, because it wasn't just the  
11 admission statement, it was after admission.

12 Q. So, you -- you recall Bethel's handbook  
13 then?

14 A. I -- I recall that piece because we were  
15 focused on that piece. We were focused on that  
16 piece with every single school that was brought to  
17 our attention.

18 Q. Okay. So, I'm -- I'm going to go ahead  
19 and pull the handbook up. That way we can just  
20 take a look at it.

21 Okay. Doctor, can you -- can you see the

1 Bethel Christian Academy handbook on your screen?

2 A. Okay.

3 Q. Okay. And this is marked Exhibit 2. It  
4 is Bates stamped 0002, which is Exhibit 1 to  
5 Plaintiff's Motion for Preliminary Injunction, and  
6 this is Bethel Christian Academy Parent/Student  
7 Handbook 2017-2018, correct?

8 A. Yes.

9 Q. From what it appears, okay.

10 So, let's go to -- I'm going to go to  
11 Bethel's admission -- Admissions Policy which you  
12 just referred to I believe. Okay. And here it is.

13 I'm on page 7 of the handbook. It's  
14 Bates 0008. Can you take a look at the Admissions  
15 Policy, read through it, and -- and let me know  
16 when you're done, and then we can discuss it.

17 (Whereupon, there was a pause for  
18 document examination.)

19 THE WITNESS: Okay.

20 BY MR. REED:

21 Q. Okay. Now, do you recall the ultimate

1 decision with respect to Bethel? Were -- were they  
2 allowed to participate in the BOOST Program or were  
3 they denied?

4 A. They were denied.

5 Q. Okay. Now, looking at their Admissions  
6 Policy, can you tell me why they were denied from  
7 participating in the BOOST Program?

8 A. There's no statement of nondiscrimination  
9 based on sexual orientation. There is also a  
10 covenant statement about one man and one woman, and  
11 that includes students in terms of are -- are  
12 required to identify with that statement and their  
13 biological gender.

14 Q. Is this the provision you're talking  
15 about (indicating)?

16 A. Yeah.

17 Q. Can you -- can you read that for the  
18 record, please?

19 A. It should be noted, however, that the  
20 Beth- -- Bethel Christian Academy supports the  
21 biblical view of marriage defined as a covenant

1 between one man and one woman, and that God  
2 immutably bestows gender upon each person at birth  
3 as male or female to reflect His image. And they  
4 give the reference. Therefore, faculty, staff, and  
5 student conduct is expected to align with this  
6 view. Faculty, staff, and students are required to  
7 identify with dress in accordance with and  
8 use -- and use the facilities associated with their  
9 biological gender.

10 Q. Okay. Thank you. Did the BOOST law,  
11 which was the Budget Bill of 2017-2018, prohibit  
12 discrimination in admissions based on gender  
13 identity?

14 A. It said no discrimination based on sexual  
15 orientation.

16 Q. Right. And it did not say based on  
17 gender identity, correct?

18 A. Well, I guess from my perspective, that's  
19 kind of parsing words because I think the intent is  
20 clearly there.

21 Q. Can you explain that?



1           A.    Yes.  Because if a student in any way  
2           does not identify as a male or a female and if they  
3           dressed in a different way, if they requested to  
4           use a different bathroom, that all has to do with  
5           sexual orientation and provisions for that, and so  
6           I think that it is in violation of the intent of  
7           the Civil Rights Act.

8           Q.    So -- so, to you, gender identity is  
9           encap- -- it's the same thing as sexual  
10          orientation.  They're one and the same?

11          A.    I think they're -- yes, I do.  I do  
12          believe that.

13          Q.    Okay.

14          A.    I mean, others may not, but I have to  
15          say, and I don't recall the date, but actually,  
16          after admissions, the General Assembly was -- felt  
17          strongly about this and made it also applicable to  
18          once the student was admitted.

19                So, if the student were admitted, given,  
20          you know, the fact that there was beliefs that they  
21          complied with this and during their time of

1 admission in the school there were changes, it was  
2 then the intent of the General Assembly to also  
3 have that as an important provision.

4 Q. Correct. You're correct. They did  
5 change it. But that was after the BOOST Board made  
6 the decision to remove Bethel Christian Academy  
7 from the BOOST Program, correct?

8 A. I am not clear about the dates, so I  
9 don't want to say yes.

10 Q. Okay. So, I want to go back to this  
11 marriage statement. It states, it should be noted,  
12 however, that Bethel Christian Academy supports the  
13 biblical view of marriage defined as a covenant  
14 between one man and one woman, and that God  
15 immutably bestows gender upon each person at birth  
16 as male or female to reflect His image.

17 To you, in your opinion, is that a  
18 statement of belief?

19 A. This has nothing to do --

20 MR. SCOTT: Objection.

21 THE WITNESS: Yeah, this has nothing to

1 do with my belief. This has to do with the intent  
2 of the -- of the law that was passed by the General  
3 Assembly of the state. It has nothing to do with  
4 my personal views.

5 BY MR. REED:

6 Q. Right. My -- my question was, is this a  
7 statement of belief that Bethel Christian Academy  
8 believes?

9 MR. SCOTT: Objection.

10 BY MR. REED:

11 Q. You can answer.

12 A. Are you asking me if this statement as  
13 reflected in this document is what Bethel Academy  
14 believes?

15 Q. Yes.

16 A. I think they believe it --

17 Q. Okay.

18 A. -- or they wouldn't put it in their  
19 handbook.

20 Q. Now, in your opinion, was this statement  
21 of belief problematic with complying with the BOOST

1 nondiscrimination and admissions requirement?

2 A. Yes, I think it was.

3 Q. Why?

4 A. I think I've explained this, but I'll do  
5 it again. Because if one accepts what is here, it,  
6 number one, does not overtly state in there  
7 nondiscrimination areas; race, color, national, and  
8 ethic origin. They do not overtly state sexual  
9 orientation, and when you get to the covenant  
10 statement, it is in opposition to the idea of  
11 diversity and sexual orientation.

12 Q. Can you tell me how a statement of belief  
13 about marriage would apply to students in grades  
14 kindergarten through 8th grade?

15 A. I don't think it's about -- it's just  
16 about marriage. It has more to it. It's the  
17 gender upon each person at birth, etcetera, and so  
18 it -- it states about marriage, but it also states  
19 about the gender requirement based on a person's  
20 birth.

21 Q. So, do you know if the Federal Civil

1 Rights Act prohibits discrimination in admissions  
2 based on sexual orientation?

3 A. Are you saying for every institution in  
4 this nation?

5 Q. Yes, federal law.

6 A. I think most -- I -- I can't speak for  
7 every institution in this state, but I can  
8 also -- but I can tell you the ones I'm affiliated  
9 with it is part of their nondiscrimination  
10 statement, but that's -- I can't speak to every  
11 institution in this country.

12 It is clearly a part of the federal  
13 statement on nondiscrimination. Some places don't  
14 accept federal dollars.

15 Q. Right. Okay.

16 MR. REED: Do you -- Rob, do you want to  
17 take a ten-minute break maybe?

18 MR. SCOTT: Sure.

19 MR. REED: Take a break?

20 MR. SCOTT: Yes, that's fine.

21 THE VIDEOGRAPHER: Okay. Off the video

1 record at 10:28 a.m.

2 (Recess taken -- 10:28 a.m.)

3 (After recess -- 10:39 a.m.)

4 THE VIDEOGRAPHER: This is the beginning  
5 of media unit number two. We are back on the video  
6 record at 10:39 a.m.

7 BY MR. REED:

8 Q. Okay. Welcome back, Doctor. Thank  
9 you -- thank you for bearing with us.

10 I'm going to show you another document,  
11 and let me pull it up. Okay. So, I've yet to mark  
12 this one, but I have -- I have to find out what  
13 exhibit number we left off on, but this is Bates  
14 stamped MSDE GOOGLE DRIVE00035.001, and it's  
15 titled, Broadening Options and Opportunities for  
16 Students Today, Advisory Board Meeting  
17 Minutes - October 11, 2017. Do you see that  
18 Dr. Grasmick?

19 A. Yes, I do.

20 Q. Okay. And this is the meeting minutes  
21 from the board meeting on October 11, 2017,

1 correct?

2 A. Yes.

3 Q. Do you recall that meeting on October 11,  
4 2017?

5 A. I was connected by teleconference, so,  
6 yes. So, I know I participated, but the  
7 specificity of it I'm not sure. I'll have to see  
8 more.

9 Q. Okay. Yeah. Let's scroll down, and you  
10 can take a look at it, and I'm going to go  
11 to -- so, there's some other business that's not  
12 pertinent, so I'm scrolling down to what is Bates  
13 00035.006, and the heading, Review of Student  
14 Handbook Language From Trinity Lutheran School.

15 Now, this goes on for a couple of pages,  
16 but if you want to review this, and I'll scroll  
17 down as you need to, and -- and then we can  
18 discuss.

19 (Whereupon, there was a pause for  
20 document examination.)

21 THE WITNESS: Okay. You can scroll.

1 (Whereupon, there was a pause for  
2 document examination.)

3 THE WITNESS: Okay.

4 (Whereupon, there was a pause for  
5 document examination.)

6 THE WITNESS: Okay.

7 (Whereupon, there was a pause for  
8 document examination.)

9 THE WITNESS: Okay.

10 (Whereupon, there was a pause for  
11 document examination.)

12 THE WITNESS: Okay.

13 (Whereupon, there was a pause for  
14 document examination.)

15 THE WITNESS: Okay.

16 (Whereupon, there was a pause for  
17 document examination.)

18 THE WITNESS: All right.

19 (Whereupon, there was a pause for  
20 document examination.)

21 THE WITNESS: All right.



1 BY MR. REED:

2 Q. Okay. So, then these are public  
3 comments. We don't have to get into that.

4 A. Okay.

5 Q. Do you -- do you recall that discussion?

6 A. I do to an extent. I -- I don't  
7 under -- I don't recall every nuance of it, no.

8 Q. Sure. Okay. Do your statements, as far  
9 as you can remember, do they accurately represent  
10 what you stated in -- in that meeting?

11 A. I think so.

12 Q. Okay.

13 MR. REED: I'm going to mark that for the  
14 record Exhibit 93.

15 (Whereupon, Grasmick Deposition Exhibit  
16 No. 93, Broadening Options and Opportunities for  
17 Students Today, Advisory Board Meeting  
18 Minutes - October 11, 2017, marked for  
19 identification.)

20 BY MR. REED:

21 Q. Okay. So, let's talk a little bit more

1 about the handbook review process. MSDE sent out a  
2 request for schools to submit their handbooks,  
3 correct?

4 A. That's my understanding.

5 Q. And they reviewed those handbooks, --

6 A. Yes.

7 Q. -- correct? And is it your understanding  
8 that they would mark or flag certain language that  
9 was questionable?

10 A. Or omissions.

11 Q. Or omissions, okay. I'm going to show  
12 you one more exhibit, which might be the last one.  
13 I'll have to find it. Here it is. Okay.

14 BY MR. REED:

15 Q. Okay. I'm showing you what I have marked  
16 Exhibit 33. It's been previously marked Exhibit  
17 33. This is Bates stamped BETHEL  
18 DEFENDANTS1332.001. Do you recognize this  
19 document, Dr. Grasmick?

20 A. I mean, I know I have seen it. I  
21 couldn't tell you all of the contents of it.

1 Q. Sure. Okay. And it's titled -- it's  
2 from the Office of the Attorney General?

3 A. Um-hum.

4 Q. And it's addressed to Matt Gallagher and  
5 Monica Kearns, correct?

6 A. Yes.

7 Q. Do you recall when you had seen this  
8 document?

9 A. No, I do not recall.

10 Q. Okay. And it's dated January 9th, 2018?

11 A. Um-hum.

12 Q. So, I'm going to page 2 of the document,  
13 and the Office of the Attorney General here is  
14 categorizing handbooks. They state, The specific  
15 language used in each handbook varies slightly, but  
16 it generally fits into one of three categories.  
17 And then they list paragraphs 1, 2 and 3.

18 Can you take a look at those three  
19 paragraphs, --

20 A. Um-hum.

21 Q. -- and let me know when you're done?

1                   (Whereupon, there was a pause for  
2 document examination.)

3                   THE WITNESS: Right. Okay.

4 BY MR. REED:

5                   Q. Okay. Do you recall these three  
6 categories of schools?

7                   A. I do.

8                   Q. Okay. And can you just tell me a little  
9 bit about what you recall with regards to these  
10 three categories?

11                  A. Well, that it goes from schools that are  
12 overt and refusing students who -- who -- I mean,  
13 the school is not going to be part of the BOOST  
14 Program because it refuses to accept students on  
15 the basis of -- of sexual orientation.

16                  The second is sexual misconduct, and the  
17 third is remaining silent on the issue --

18                  Q. Do you recall which category -- I'm  
19 sorry. Go ahead.

20                  A. Well, just to say no one is asking a  
21 school to change its beliefs system, but then they

1 can't be part of the BOOST Program for the third  
2 category.

3 Q. Do you -- do you recall which category  
4 Bethel Christian Academy was in?

5 A. I would assume the third, but I --

6 Q. Okay.

7 A. Because it remains --

8 Q. And these -- they were placed in the  
9 third category?

10 A. Okay.

11 Q. Do you recall what steps the BOOST Board  
12 took with respect to the schools that were kind of  
13 in the third bucket or third category?

14 A. I -- I don't recall each one of those,  
15 no.

16 Q. Okay.

17 A. I do know that some of the schools that  
18 were in the third category originally made  
19 adjustments.

20 Q. And -- and what happened to those -- do  
21 you mean made adjustments to their handbook

1 language?

2 A. Um-hum. Yes.

3 Q. And so what happened to those schools  
4 that made adjustments to their handbook language?

5 A. They were -- they did not have the same  
6 consequence in terms of --

7 Q. And --

8 A. -- of withdrawaling money.

9 Q. So, they were permitted to participate in  
10 the BOOST Program; is that correct?

11 A. After the revisions.

12 Q. And those schools that did not make  
13 revisions, do you recall what happened to them?

14 A. If -- if they didn't make any revisions,  
15 then the decision would be to withhold the  
16 money --

17 Q. Okay.

18 A. -- and -- and students continuing to  
19 attend, but not -- the school not receiving the  
20 BOOST money and pay back.

21 Q. Okay. Do you -- do you recall the

1 Maryland State Department of Education sending  
2 follow-up letters to the schools in category 3?

3 A. I may -- I would be making an assumption  
4 that those letters were sent, but I -- I cannot  
5 personally confirm that.

6 Q. Okay. So, I'm going to show you what has  
7 been marked Exhibit 11, and it's marked Exhibit 11,  
8 Bates stamped 0069, which was Exhibit 3 to  
9 Plaintiff's Motion for Preliminary Injunction.

10 Take a look at this document for a  
11 moment, and you don't have to read through  
12 everything. Just look at it, and let me know when  
13 you have read it.

14 (Whereupon, there was a pause for  
15 document examination.)

16 THE WITNESS: Okay. I'm --

17 (Whereupon, there was a pause for  
18 document examination.)

19 THE WITNESS: Okay.

20 BY MR. REED:

21 Q. Okay. Have you seen this document

1 before?

2 A. I -- yes, I believe I have.

3 Q. Okay. And this is on Bethel Christian  
4 Academy letterhead dated March 13th, 2018 and  
5 addressed to Ms. Kearns, correct?

6 A. Correct.

7 Q. And that would have been Monica Kearns?

8 A. That's correct.

9 Q. Okay. And it's -- the letter is in  
10 response to the questions raised by the BOOST  
11 Advisory Board regarding how Bethel Christian  
12 Academy's student handbook "reconciles with" the  
13 assurance BCA signed regarding nondiscrimination in  
14 student admissions, correct?

15 A. Right.

16 Q. So, do you recall the MSDE asking  
17 those category 3 schools how their handbook  
18 languages -- language complies with the  
19 nondiscrimination law?

20 A. Monica Kearns indicated that that  
21 question was being asked of those schools.



1 Q. Right. Okay. And that question was  
2 asked of Bethel Christian Academy, correct?

3 A. Yes.

4 Q. Okay. I'm scrolling down to the second  
5 page, which is Bates 0070. Can you read the -- the  
6 sentence starting on the top of the page that  
7 starts, Bethel Christian Academy? And just read  
8 that sentence, please.

9 A. Sure. Does not ask questions about  
10 sexual orientation at all during the admissions  
11 process and is willing to enroll any student who  
12 meets the academic criteria and whose past school  
13 conduct has not been demonstrably disruptive in a  
14 previous school. Do you want me to continue?

15 Q. No, that's fine. So, MSDE asked Bethel  
16 how its handbook language complies with the  
17 nondiscrimination requirements, and Bethel  
18 responded with what you just read.

19 My question is, what was -- was that  
20 answer satisfactory to you as the board member,  
21 that it -- that the school was complying with the

1 nondiscrimination requirements?

2 A. No.

3 Q. And why not?

4 A. Because of the subsequent covenant  
5 statement, and if a student were admitted, but once  
6 entered the school without overt statement of  
7 nondiscrimination and then the student appeared to  
8 have a different sexual orientation, that that  
9 student would not be allowed to continue.

10 Q. Do you recall anywhere in Bethel's  
11 handbook where it says that they would expel a  
12 homosexual student?

13 A. I -- I would interpret the language of  
14 the covenant one man with one woman and that that  
15 is a belief system that had to be embraced in -- in  
16 the covenant language as counter to saying that  
17 there is nondiscrimination about -- in reference to  
18 sexual orientation, because in that case, that  
19 student cannot comply in -- with that covenant  
20 statement, and, therefore, I'm -- the school  
21 demands that of the student. It says student

1 conduct is required --

2 MR. SCOTT: I think we lost her.

3 MR. REED: Yeah.

4 THE VIDEOGRAPHER: Okay. I'll get us off  
5 the record. Off the record at 11:00.

6 (Recess taken -- 11:00 a.m.)

7 (After recess -- 11:04 a.m.)

8 THE VIDEOGRAPHER: On the video record at  
9 11:04 a.m.

10 BY MR. REED:

11 Q. Okay. Welcome back, Dr. Grasmick.

12 A. Thank you.

13 Q. Okay. I -- that's one of the things with  
14 these -- you know, doing it in person is a lot  
15 easier, but it is what it is.

16 A. Right.

17 Q. So, thank you for bearing -- bearing with  
18 us.

19 A. I do, and I hope it doesn't happen again,  
20 but there's no guarantee.

21 Q. Sure. Well, I don't -- I don't think

1 we'll be too much longer here, so, hopefully, we  
2 can wrap it up.

3 So, we were just talking about the -- the  
4 kind of -- the response Bethel Christian Academy  
5 offered to the MSDE about their handbook language.

6 Now, my next question is, did you -- did  
7 you or the board have any evidence of actual  
8 discrimination in admissions at Bethel Christian  
9 Academy based on sexual orientation?

10 A. No, I didn't. I did not.

11 Q. Okay.

12 A. So, I'll answer for myself.

13 Q. Sure. Did you or the board have any  
14 evidence that any of the schools that participated  
15 in the BOOST Program were discriminating in their  
16 admissions based on sexual orientation?

17 MR. SCOTT: Objection.

18 THE WITNESS: You know, I -- I can't say  
19 whether they did or didn't.

20 BY MR. REED:

21 Q. Could you repeat your answer? You kind

1 of froze. We lost you for a moment.

2 A. For that -- the second part about other  
3 schools, I -- I don't recall, no, and -- and I  
4 think that, for the most part, there was an  
5 awareness policy, etcetera. Can you -- are you  
6 frozen?

7 Q. No. We -- you were breaking up, and I  
8 hate to ask you a third time, but --

9 A. Okay. Just do it. Do it.

10 Q. Can you just repeat it?

11 A. Yeah, I -- I said that I did not have  
12 evidence of the other schools in terms of admitting  
13 students on the basis of sexual orientation, not  
14 being in compliance, etcetera in the sense of  
15 knowing that they expelled students, etcetera. So,  
16 that -- I can't answer that question.

17 Q. Okay.

18 A. And many of the schools made adjustments,  
19 so --

20 Q. And those schools that adjusted their  
21 handbook language were allowed to continue to

1 participate, correct?

2 A. Yes.

3 Q. I'm going to show you one more exhibit.

4 Give me one moment. I have to find it.

5 A. Sure.

6 Q. Well, let's -- let's -- before we go

7 there, let's -- let's talk about, so do

8 you -- there was a board meeting on June 21st,

9 2018. Do you recall that meeting?

10 A. I do not specifically recall that

11 meeting.

12 Q. Okay. Maybe this will refresh your

13 recollection. I'm going to show you what's marked

14 Exhibit 36.

15 BY MR. REED:

16 Q. Okay. This is Exhibit 36, Bates stamped

17 BETHEL DEFENDANTS2333.001 entitled, Broadening

18 Options and Opportunities for Students Today,

19 advisory Board Meeting - June 21st, 2018, Summary

20 of Decisions. Do you see that, Doctor?

21 A. Yes, I do.

1 Q. Okay. And have you seen this document  
2 before or documents like these?

3 A. I have seen documents like these, and I  
4 do recall a presentation on special education.

5 Q. Okay. Great. I'm going to scroll down  
6 to it's marked 3) on the summary, which is Schools'  
7 student handbooks and nondiscrimination  
8 requirements. If you just want to review that kind  
9 of subsection 3), maybe that will refresh your  
10 memory a little bit.

11 (Whereupon, there was a pause for  
12 document examination.)

13 THE WITNESS: Okay.

14 BY MR. REED:

15 Q. Okay. Did that refresh your memory at  
16 all of that meeting?

17 A. Yes.

18 Q. Okay. And in that meeting, the board  
19 decided that Broadfording Christian Academy and  
20 Grace Academy in Hagerstown could participate in  
21 the BOOST Program, correct?

1 A. Yes.

2 Q. And the board unanimously decided that  
3 Bethel Christian Academy and Woodstream Christian  
4 Academy could not participate in the BOOST Program,  
5 correct?

6 A. Correct.

7 Q. Now, the board, it states on subsection  
8 b. here, went into closed session at 2 or  
9 3:25 p.m., correct?

10 A. Yes.

11 Q. Now, do you recall that, going into  
12 closed session?

13 A. Vaguely.

14 Q. Okay. And do you recall prior to this  
15 meeting if the BOOST Board had ever gone into  
16 closed session at any other board meeting?

17 A. I do not recall.

18 Q. Do you -- so, you mentioned when we first  
19 started that you were the State Superintendent of  
20 Schools for, I think, 20 years, correct?

21 A. That's correct.



1 Q. And I don't know the details of that  
2 position, but did -- did that require you to attend  
3 board meetings?

4 A. Absolutely.

5 Q. Okay. Sure. Now, in those board  
6 meetings while you were State Superintendent of  
7 Schools, did -- was that the Board of Education  
8 or --

9 A. Yes. It was the State Board of  
10 Education.

11 Q. Okay. And did the State Board of  
12 Education ever go into closed session?

13 A. They did.

14 Q. Okay. And you were present when they did  
15 so, correct?

16 A. Yes.

17 Q. Okay.

18 A. Other than when it was my evaluation.

19 Q. Right. Right. When they discussed you,  
20 right. Okay.

21 Are you -- are you familiar with how a

1 board goes into closed session under Maryland law?

2 A. Generally.

3 Q. Okay. Are you aware that a board member  
4 of each public board has to have specific training  
5 under -- per the Maryland Open Meetings Act?

6 MR. SCOTT: Objection.

7 BY MR. REED:

8 Q. You can answer.

9 A. Well, basically, there's a protocol for  
10 going into closed meetings, but I don't know the  
11 specificity of the individual training for every  
12 board member.

13 Q. Did -- did you -- while you were on the  
14 BOOST Board, and not the State Superintendent of  
15 Schools, did you ever receive training on  
16 going -- under the Open Meetings Act?

17 A. I don't know what you mean by training.

18 Q. Well, the law states that one board  
19 member has to receive specific training under the  
20 Open Meetings Act for each public board throughout  
21 the state, and my question just is -- my question

1 really is, do you know which member of the BOOST  
2 Board received that training?

3 A. I do not.

4 Q. And, to your knowledge, it was not you?

5 A. No. Although, the assumption would be I  
6 knew about going into closed session, --

7 Q. Sure.

8 A. -- but I'm not -- I was not specifically  
9 trained vis-a-vis the BOOST Board.

10 Q. Okay. All right. I'm going to show  
11 you -- I've got to see where we're at.

12 MR. REED: I'm going to mark an exhibit,  
13 Exhibit 94.

14 (Whereupon, Grasmick Deposition Exhibit  
15 No. 94, Minutes of the Maryland State Board of  
16 Education dated August 24, 2010, marked for  
17 identification.)

18 BY MR. REED:

19 Q. And we're getting -- we're close to  
20 wrapping up, so it shouldn't be too much longer  
21 here. Okay.

1 I'm showing you what's been marked as  
2 Exhibit 94. It's titled, Minutes of the Maryland  
3 State Board of Education, Tuesday, August 24th,  
4 2010. Do you see that?

5 A. I do.

6 Q. And the board met for its regular session  
7 at the State Education Building, which is named  
8 after you, correct?

9 A. Correct.

10 Q. That's impressive. And you were present  
11 at this meeting, correct?

12 A. I'm sure I was. I never missed one.

13 Q. Right. As the -- so, is it the State  
14 Superintendent of Schools is the  
15 secretary/treasurer of the state board? Is that  
16 how it worked?

17 A. Yes.

18 Q. Okay. So, I'm not asking you if you  
19 recall this specific meeting because it was quite a  
20 while ago, but I want to show you a -- a document,  
21 and it looks like you -- you signed the -- the

1 meeting minutes, correct?

2 A. Correct.

3 Q. I'm on page 12 of the exhibit. So, I  
4 want to look at page, what would be -- it's not  
5 marked, but it would be page 13, and it's titled,  
6 Maryland State Board of Education, Closed Session.  
7 Do you see that document?

8 A. I do.

9 Q. Are you familiar with this document or  
10 documents that look, you know, similar to that?

11 A. I am.

12 Q. And can you tell me what that document  
13 is?

14 A. I'm -- I'm not sure what you mean by the  
15 question.

16 Q. Well, I'm just -- I'm not too familiar  
17 with the document, so can you just -- what is the  
18 purpose of this document, the closed-session  
19 document?

20 A. It talked about the topics to be  
21 considered.

1 Q. In a -- in a closed session?

2 A. Um-hum. (Nodding head yes.)

3 Q. Okay. And do you know if this document  
4 is required by the Maryland Open Meetings Act?

5 MR. SCOTT: Objection. The witness is  
6 not a lawyer.

7 BY MR. REED:

8 Q. You can answer.

9 A. Well, the fact of the matter is it would  
10 be guided by the attorneys assigned to the State  
11 Board of Education.

12 Q. Okay. And you've -- you've seen this  
13 document probably multiple times throughout your 20  
14 years on the state -- state board?

15 A. Correct.

16 Q. Okay. So, is it fair to say you're  
17 somewhat familiar with it?

18 A. I understand the -- the development of  
19 this, and -- yes, I -- I understand the purpose and  
20 development of it.

21 Q. Okay. Now, we were just looking at the

1 meeting minutes from the June 21st, 2018 board  
2 meeting, and you stated in the minutes, and the  
3 minutes depict, that the board went into closed  
4 session.

5 Do you recall if that closed-session  
6 document that we just looked at, if one of those  
7 were used at the board meeting?

8 A. I -- I do not. I do not recall, and I  
9 also do not -- do not know what's termed the  
10 executive -- I -- I don't know. I don't know the  
11 difference between an official, a body like the  
12 State Board of Education and the BOOST Board and  
13 certainly guided by the Attorney General's Office  
14 with representation of those attorneys at our BOOST  
15 meetings, so, you know, I don't -- I don't know the  
16 requirements.

17 Q. Okay. Okay. So, I think this is going  
18 to be the last document I'll show you. Give me one  
19 moment, and I want to make sure -- I want to make  
20 sure this is labeled correctly, so bear with me for  
21 one moment.

1 A. Sure.

2 Q. This is the hard part of doing things  
3 electronically.

4 A. Yes.

5 Q. Normally it's marked, and, you know, it's  
6 just on the table, but here I have to go back and  
7 find it, and I am not seeing it.

8 So, this is what we'll do: I'll just  
9 show it to you, and I will mark it afterwards.

10 Okay. I'm showing you, which we will  
11 mark afterwards, but it's Bethel Christian Academy  
12 Parent/Student Handbook 2020-2021. Do you see  
13 that, Doctor?

14 A. Yes, I do.

15 Q. Have you looked at this handbook before?

16 A. I have seen portions of it that were  
17 germane to questions, but not the entire handbook.

18 Q. Okay. And -- and to be clear, we're  
19 talking about what is its current handbook,  
20 correct, or for this school year?

21 A. I definitely have not -- I mean, during



1 the pandemic, I have not seen it.

2 Q. Okay. And that's --

3 A. If you're -- if you're speaking about  
4 this specific one.

5 Q. Right, and I am. That's what I'm getting  
6 at, that this is the current handbook --

7 A. Okay.

8 Q. -- that you -- you probably have not  
9 seen?

10 A. No, I have not.

11 Q. So, again, I'm going to go to the  
12 Admissions Policy --

13 A. Um-hum.

14 Q. -- which is on page 7 of the handbook.  
15 Now, take the time you need. Take a look at it, if  
16 you need to. I know we've looked at a similar  
17 one --

18 A. Um-hum.

19 Q. -- previously. Just let me know when  
20 you're ready to proceed.

21 (Whereupon, there was a pause for

1 document examination.)

2 THE WITNESS: Okay.

3 (Whereupon, there was a pause for

4 document examination.)

5 THE WITNESS: Okay.

6 BY MR. REED:

7 Q. Okay. So, under the current BOOST  
8 law -- I mean, you're still -- you -- you are a  
9 sitting BOOST Board member, correct, as we sit here  
10 today?

11 A. Yes, sir, I am.

12 Q. Under the current BOOST law, this is  
13 Bethel Christian Academy's 2020-2021 handbook.  
14 Does this handbook comply with the current BOOST  
15 law's nondiscrimination requirements?

16 MR. SCOTT: Objection. Are you asking  
17 about the entire handbook, Counsel, or just this  
18 page?

19 MR. REED: Well, this is the Admissions  
20 Policy, so just this page.

21 THE WITNESS: But the decision was to

1 expand the Admissions Policy into the actual  
2 student experience with -- once accepted into the  
3 school, so looking at this in isolation I don't  
4 think is satisfactory.

5 BY MR. REED:

6 Q. Well, let me ask this: Does the  
7 Admissions Policy comply with the admissions  
8 requirement of the current BOOST law?

9 A. No, because it's not -- I don't -- I  
10 don't know what the -- the statement of the school  
11 is on sexual discrimination. It's silent.

12 Q. So, because it does not mention sexual  
13 orientation, in your opinion it does not comply  
14 with the BOOST requirements?

15 A. No. It's like taking out any of these  
16 other pieces of the federal law. Race -- if -- if  
17 it did say anything about race, should I make the  
18 assumption race isn't -- that be discriminated  
19 against on the basis of race or not? No, it's  
20 silent.

21 Q. Can you show me in Bethel's Admissions

1 Policy where they reserve the right to discriminate  
2 based on sexual orientation?

3 MR. SCOTT: Objection.

4 THE WITNESS: No, I will not answer that  
5 because I think I did answer it. I said it's  
6 silent on it, so I have no idea what the position  
7 of the school is on sexual orientation.

8 BY MR. REED:

9 Q. Okay. The current BOOST law, they added  
10 in gender identity to -- to the nondiscrimination  
11 requirements; is that your understanding?

12 A. Yes.

13 Q. We talked about it earlier, right. So,  
14 how does a school violate the nondiscrimination in  
15 admissions based on gender identity?

16 MR. SCOTT: Objection.

17 THE WITNESS: Because it is to be stated  
18 overtly, just as every other dimension of the Civil  
19 Rights Act is stated overtly. It is not stated  
20 overtly.

21 And why isn't it stated overtly? It's a,

1 you know, rhetorical question. I'm not asking you.  
2 It's a rhetorical question, but it is silent on  
3 that, and being silent on that does not ensure and  
4 guarantee that it is not going to be used not only  
5 in admissions, but also in a participating student  
6 in the school.

7 BY MR. REED:

8 Q. Okay. So, if a school were to -- if a  
9 school's handbook is silent, as you mentioned, but  
10 if they were to sign an assurance and explain that  
11 they do not discriminate in admissions or retention  
12 or expulsion based on either gender identity or  
13 sexual orientation, to you that still would not  
14 comply with the BOOST nondiscrimination  
15 requirements?

16 MR. SCOTT: Objection.

17 BY MR. REED:

18 Q. You can answer.

19 A. Because if I'm a parent looking at the  
20 admission policy and what happens once a student is  
21 engaged with the school, why -- it's -- it's an

1 admission policy. This is a public document for  
2 anyone who is considering Bethel Academy, and  
3 whatever they submit to us is -- is not a public  
4 document to be disseminated to potential students  
5 and their families.

6 Q. So, again, even if they told a student  
7 and their families, we -- we don't discriminate, we  
8 don't consider, that's -- that wouldn't be good  
9 enough?

10 MR. SCOTT: Objection.

11 THE WITNESS: To tell -- yeah, we have no  
12 guarantee in telling them. We don't know what  
13 people are saying. We know what's in print, and  
14 it's disseminated.

15 BY MR. REED:

16 Q. Well, you -- you did have a guarantee  
17 from Bethel who said we don't discriminate based on  
18 sexual orientation, correct?

19 A. But that was verbal. We're talking about  
20 a disseminated policy.

21 Q. And, again, for those schools that don't

1 have handbooks, the BOOST Board would require those  
2 schools to create handbooks?

3 MR. SCOTT: Objection. Asked and  
4 answered.

5 THE WITNESS: No --

6 BY MR. REED:

7 Q. Go ahead. You can answer.

8 A. No, I'm not going to answer that, because  
9 I want -- I would be answering for myself. I think  
10 every school should have a handbook policy, and  
11 that's my position, but that's -- I'm not speaking  
12 for the board.

13 Q. Right. But you are a sitting board  
14 member, correct?

15 A. I am one board member.

16 Q. Okay. Just a few -- a few more here.

17 So, apart from BOOST Board meetings, did  
18 you have any communications with Monica Kearns  
19 regarding the handbook review process?

20 A. Only what was done at the board meeting.  
21 I had no private conversations with her.

1 Q. Okay. Did you have any conversations  
2 with BOOST Board members outside of BOOST Board  
3 meetings?

4 A. I did not.

5 Q. Okay. Throughout the handbook review  
6 process, did you discuss the process or the BOOST  
7 Board meetings with any members of the media?

8 A. No.

9 Q. Were you aware -- scratch that.  
10 Did you have any discussions regarding  
11 the handbook review process with the ACLU?

12 A. I don't -- I don't recall having any  
13 conversation with them, other than if they  
14 participated as observers to the meeting, you know,  
15 they would have heard discussion.

16 Q. Right. Did you have any discussions  
17 regarding the handbook review process with anyone  
18 from the Maryland Governor's Office? Any staff?

19 A. No.

20 Q. What about with any state delegates or  
21 senators or their staff?



1 A. No.

2 Q. Okay. So, Dr. Grasmick, it's fair to say  
3 you've devoted your entire career to education,  
4 correct? I mean --

5 A. That is correct.

6 Q. Right. Okay. So, you've been involved  
7 for many years with education. What is your  
8 relationship or past relationship with the Maryland  
9 PTA?

10 A. There's always been a PTA in individual  
11 schools and in systems where I've been part of it,  
12 and it's been an, you know, important organization  
13 to galvanize parents who care deeply about  
14 education for their children. So, yes, I've always  
15 had some relationship based on whatever position I  
16 held.

17 Q. Okay.

18 MR. REED: I think that's it. Let me  
19 double-check and make sure I'm not missing any  
20 documents.

21 THE WITNESS: Okay.

1 MR. REED: I'm going to -- for the record  
2 and Michele, I'm going to mark the Bethel Handbook  
3 2020-2021 Exhibit 100.

4 THE COURT REPORTER: Okay.

5 MR. REED: And I'll produce that.

6 (Whereupon, Grasmick Deposition Exhibit  
7 No. 100, Bethel Christian Academy Parent/Student  
8 Handbook 2020-2021, marked for identification.)

9 MR. REED: Okay. I think that's all of  
10 the questions I have for you, Doctor.

11 THE WITNESS: Thank you very much.

12 MR. SCOTT: Okay. I don't have any  
13 questions. The witness will read and sign the  
14 transcript, and I need a copy, please.

15 THE COURT REPORTER: Okay.

16 THE VIDEOGRAPHER: Okay. All right.  
17 This concludes today's video-recorded deposition.  
18 We are going off the video record at 11:33 a.m.

19 (Whereupon, the deposition of Nancy S.  
20 Grasmick, Ed.D. was concluded at 11:33 a.m., and  
21 the reading and signing of the transcript was not

1 waived.)

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1 State of Maryland

2 County of Baltimore, to wit:

3 I, Michele D. Lambie, a Notary Public of  
4 the State of Maryland, County of Baltimore, do  
5 hereby certify that the within-named witness  
6 personally appeared before me at the time and place  
7 herein set out, and after having been duly sworn by  
8 me, according to law, was examined by counsel.

9 I further certify that the examination  
10 was recorded stenographically by me and this  
11 transcript is a true record of the proceedings.

12 I further certify that I am not of  
13 counsel to any of the parties, nor related to any  
14 of the parties, nor in any way interested in the  
15 outcome of this action.

16 As witness my hand this 6th day of April, 2021.

17

18

19

20

21

1 Robert A. Scott, Esquire

2 rscott@oag.state.md.us

3 May 6, 2021

4 RE: Bethel Ministries, Inc. v. Salmon, Karen Et Al.  
5 4/26/2021, Nancy Grasmick, Ed.D. (#4551823)

6 The above-referenced transcript is available for  
7 review.

8 Within the applicable timeframe, the witness should  
9 read the testimony to verify its accuracy. If there are  
10 any changes, the witness should note those with the  
11 reason, on the attached Errata Sheet.

12 The witness should sign the Acknowledgment of  
13 Deponent and Errata and return to the deposing attorney.  
14 Copies should be sent to all counsel, and to Veritext at  
15 cs-midatlantic@veritext.com

16  
17 Return completed errata within 30 days from  
18 receipt of transcript.

19 If the witness fails to do so within the time  
20 allotted, the transcript may be used as if signed.

21  
22 Yours,

23 Veritext Legal Solutions  
24  
25

1 Bethel Ministries, Inc. v. Salmon, Karen Et Al.  
2 Nancy Grasmick, Ed.D. (#4551823)

3 E R R A T A S H E E T

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24 Nancy Grasmick, Ed.D.

Date

25

1 Bethel Ministries, Inc. v. Salmon, Karen Et Al.

2 Nancy Grasmick, Ed.D. (#4551823)

3 ACKNOWLEDGEMENT OF DEPONENT

4 I, Nancy Grasmick, Ed.D., do hereby declare that I  
5 have read the foregoing transcript, I have made any  
6 corrections, additions, or changes I deemed necessary as  
7 noted above to be appended hereto, and that the same is  
8 a true, correct and complete transcript of the testimony  
9 given by me.

10

11

12 \_\_\_\_\_ Date  
Nancy Grasmick, Ed.D.

13

\*If notary is required

14

SUBSCRIBED AND SWORN TO BEFORE ME THIS

15

\_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_.

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NOTARY PUBLIC

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[0002 - administer]

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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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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 50**



Deposition of:  
**Donna Gunning**

*April 28, 2021*

In the Matter of:

**Bethel Ministries, Inc vs Salmon, et al**

Veritext Legal Solutions

800-734-5292 | [calendar-dmv@veritext.com](mailto:calendar-dmv@veritext.com) |

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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 DONNA  
GUNNING, was taken on Wednesday, April 28, 2021,  
commencing at 1:32 p.m., before Allison L. Shearer,  
RPR, a Notary Public.

Reported By: Allison L. Shearer, RPR

1 APPEARANCES:

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20

21 ALSO PRESENT: Ms. Eliza Spikes, Videographer

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DONNA GUNNING

BY MR. SCHMITT

9

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NOTE: Exhibits maintained in Exhibit Share.

1 VIDEOPHOTOGRAPHER: Good afternoon. We're  
2 going on the video record at 1:32 p.m. on  
3 Wednesday, April 28, 2021. This is media unit  
4 number one in the videorecorded deposition of  
5 Ms. Donna Gunning in the matter of Bethel  
6 Ministries, Inc. versus Salmon, et al. filed in the  
7 United States District Court for the District of  
8 Maryland, Northern Division. Case number,  
9 1:19-CV-01853.

10 This deposition is being held via Zoom.  
11 My name is Eliza Spikes and I am from the firm  
12 Veritext and I am the videographer. The court  
13 reporter today is Ms. Allison Shearer also from  
14 Veritext.

15 I am not authorized to administer the  
16 oath. I am not related to any party in this  
17 action, nor am I financially interested in the  
18 outcome.

19 Counsel and all present in the room and  
20 anyone attending remotely will now state their  
21 appearances and affiliations for the record. If

1 there are any objections to this proceeding, please  
2 state them at the time of your appearance beginning  
3 with the noticing attorney.

4 MR. SCHMITT: Good afternoon, everybody.  
5 This is Paul Schmitt. I am here on behalf of the  
6 plaintiff, Bethel Ministries, and I have Ryan  
7 Tucker and Jacob Reed observing.

8 MS. SHERIDAN: Hello, everybody. This is  
9 Ann Sheridan from -- Assistant Attorney General  
10 from the Office of the Attorney General and also  
11 with me is Justin Fine, Assistant Attorney General.  
12 He will be observing. Today I am representing the  
13 defendant and also Ms. Gunning, the witness.

14 Ms. Gunning's deposition has been noted  
15 for her personal deposition, but also she has been  
16 designated the Maryland State Department of  
17 Education's 30(b)(6) designee and preliminarily I  
18 do have a couple of objections to put on the  
19 record.

20 The -- in response to Bethel's 30(b)(6)  
21 Notice of Deposition, MSDE did file several



1 objections and -- to the topics listed and in  
2 particular, MSDE objects to this deposition to the  
3 extent that it seeks information duplicative of  
4 information that Bethel has requested and obtained  
5 through other methods of discovery, including  
6 interrogatories; production of documents; and  
7 depositions of members of the BOOST Board and  
8 depositions of other MSDE staff.

9 Bethel's attempt to seek the same  
10 information via deposition of MSDE's organizational  
11 representative is unreasonably cumulative.

12 MSDE further objects to the extent that  
13 the deposition purports to require MSDE's designee  
14 to memorize the contents of a large volume of  
15 documents and communications that have already been  
16 produced to Bethel and it's my understanding the  
17 witness will not be able to do that today, but she  
18 can speak generally in broad terms about what  
19 occurred.

20 And she can speak to some specifics or --  
21 if to the extent that Bethel would like her to

1 address specifics, I would ask that counsel please  
2 provide specific documents for Ms. Gunning to  
3 review.

4 I -- I also have another preliminary  
5 request and that is I -- I believe that there's  
6 some ability to permit the witness to actually do  
7 the scrolling through exhibits and that would be  
8 helpful to Ms. Gunning, if -- if that's -- that  
9 would be very helpful to her in terms of -- instead  
10 of having somebody else scroll for her.

11 I mean, I think it's -- it's analogous to  
12 handing a document across a conference table and  
13 letting the witness flip through it. And that's  
14 it.

15 VIDEOGRAPHER: Will the court reporter  
16 please swear in the witness.

17 DONNA GUNNING,  
18 the Deponent, called for examination by the  
19 Plaintiff, being first duly sworn remotely to tell  
20 the truth, the whole truth, and nothing but the  
21 truth, testified as follows:

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EXAMINATION

BY MR. SCHMITT:

Q. Well, good afternoon, ma'am. I am Paul Schmitt. I am at the law firm Alliance Defending Freedom. I represent Bethel Ministries in the Bethel case pending before the District of Maryland.

Before we get started, just as a global thing, do you have a way that you prefer for me to address you? Do you prefer Ms. Gunning, Mrs. Gunning, Donna? Anything in particular?

A. It doesn't matter. Whatever works for you.

Q. Okay. I -- I'm -- like I said, I'm Paul Schmitt. You can call me Paul. I'll probably call you Ms. Gunning, unless you don't like that, but I'm going to -- I'll try to figure out how to give you the ability to scroll through some of the longer documents where that's going to be relevant. I have not done that yet before so we'll have to -- we'll have to do that as we come along.

1           But as the court reporter stated, there's  
2 just kind of a few things. I'm sure Ann has  
3 probably kind of given you a little bit of  
4 background on how this works before, but -- so  
5 we're doing depositions today.

6           This is just a part of discovery where  
7 we're taking these interviews and getting more  
8 information to supplement the documents we've  
9 already exchanged.

10           You're designated as the corporate rep  
11 for the MSDE, I'm sure you know that, so I'll have  
12 questions about current policies for BOOST and  
13 textbook program and things like that.

14           Because we're doing this over Zoom, I'll  
15 have a -- a number of questions that I'm just going  
16 to run through right now because normally as -- as  
17 Ann was saying earlier, we'd be in a room and we'd  
18 be sliding documents and all of that and because of  
19 the world we live in now, that's not the case.

20           So because we're not all in the same  
21 room, I have to ask, do you have anybody else in

1 the room with you today?

2 A. No, sir.

3 Q. If anybody happens to come into the room  
4 at any time, just please let us know. The reason  
5 for that is all the answers that we're trying to  
6 get are your own and so, you know, as far as  
7 outside help through text messages or, you know,  
8 instant messaging or anything like that, that's not  
9 permissible in this context.

10 So we're just trying to go off of what  
11 you know and what you remember to the best of your  
12 -- to the best of your ability. So there's that.

13 Do you have anything -- anything with you  
14 today, any notes, documents, binders, anything like  
15 that?

16 A. Nope. I just have the Notice of the Rule  
17 30(b)(6) Deposition.

18 Q. Okay. Great. Great. Have you looked  
19 through that document before today?

20 A. Yes.

21 Q. Okay. Did you look at all the topics

1 that you've been noticed for?

2 A. Yes.

3 Q. Okay. So you're the designee for all of  
4 those topics, correct?

5 A. Yes.

6 Q. Okay. Great. So we'll do that. If -- I  
7 try my best to not make these go forever because  
8 number one, I'm very grateful that you made  
9 yourself available and that you're being generous  
10 with your time here today, but, you know, we've got  
11 probably a lot of stuff to cover so I'm going to  
12 try to move quickly and get -- get the information  
13 we need, but I'm also going to be respectful of  
14 your time.

15 Should you need a break, you know, if  
16 you'd like to get a coffee, use the restroom, or  
17 you just need a minute, just let us know; we'll  
18 take a break and go along. With that being said,  
19 I'm going to try to truck along so that we aren't  
20 stuck here all day.

21 Okay. So I think that about covers it

1 with exhibits. I'll bring them up. I'm going to  
2 try to see if we can give you the ability to drive  
3 on them, but some of them are just like one page so  
4 I might zoom in and all that. It might be easier  
5 to just do it that way.

6 So if there's ever something you can't  
7 see, let us know. If there's ever a technology  
8 problem, let us know. So if somebody freezes or  
9 you can't hear something, if you can't get -- if  
10 you didn't hear a question, go ahead and let us  
11 know. We'll repeat it or we'll stop or we'll get  
12 adjusted, however we have to do.

13 Let's see. I work in an office building  
14 that has a lot of ambient noise so I may mute  
15 myself after I ask you a question while I'm  
16 listening to the answer. So there's that.

17 And also, yeah, as the court reporter  
18 said, it's helpful if we don't talk over one  
19 another. So I'll say do you have any questions or  
20 anything?

21 A. (Witness nodding head.)

1 Q. Great. Let's get started then. Ma'am,  
2 could you for the record say and spell your name,  
3 please.

4 A. My name is Donna Gunning. Last name  
5 spelled G-U-N-N-I-N-G.

6 Q. Great. Thank you. And Ms. Gunning,  
7 could you do me a favor and walk me through your  
8 background. We'll just start with your educational  
9 background.

10 A. I have a Bachelor's degree in  
11 communications.

12 Q. Great. Where did you get that from?

13 A. Salisbury State University.

14 Q. Okay. Did you do any other -- any other  
15 -- anything else in higher ed, any other degrees or  
16 certificates or anything like that?

17 A. I have a certificate in public education  
18 finance from University of Georgetown.

19 Q. Great. So I know you're currently at  
20 MSDE. What's your role at MSDE?

21 A. My title is Executive Director of the



1 Office of Policy and Fiscal Analysis.

2 Q. Okay. And then how long have you had  
3 that position?

4 A. I've had this position since September of  
5 2018.

6 Q. And where were you before you were in  
7 your current role?

8 A. At MSDE in a different role.

9 Q. What role was that?

10 A. I was a Program Manager in the Office of  
11 Policy and Fiscal Analysis.

12 Q. Okay. And how long -- how long were you  
13 in that role?

14 A. Since 2015.

15 Q. Okay. And then before then, what --

16 A. I was --

17 Q. -- what was your background?

18 A. I was a Specialist in the Office of  
19 Finance and Administration.

20 Q. Also at MSDE?

21 A. Yup.

1 Q. Okay. So how long have you been with  
2 MSDE?

3 A. Since 1999.

4 Q. Great. Did you have any jobs before --  
5 before your time in the government?

6 A. Yeah, I was a mom. Before that, I worked  
7 for a trade association in Alexandria, Virginia.

8 Q. Great. Okay. So what was the trade  
9 association?

10 A. It's called Community Associations  
11 Institute.

12 Q. What did they do?

13 A. They were a trade association for common  
14 interest communities.

15 Q. Interesting. Okay. So I would like to  
16 ask just some kind of general questions about the  
17 BOOST program and the textbook program. So since  
18 September of 2018, have you had oversight of those  
19 two programs?

20 A. Yes.

21 Q. And what -- are there other programs that

1 you also administer or have oversight over?

2 A. There are other -- they're not specific  
3 programs, but there are other branches within the  
4 agency that I do.

5 Q. Okay. What are those?

6 A. The local financial reporting branch.

7 Q. Okay. I'm going to pull something up  
8 here. Oh. Give me just one second to take a look  
9 at something here. I need to make sure we're on  
10 the right exhibit. Yes. Okay. So this is likely  
11 going to be Exhibit 101. Let me do that  
12 now. Because I just -- just so I can kind of get a  
13 visual of what we're talking about here.

14 And I've premarked most exhibits today so  
15 hopefully this will run quicker and smoother than  
16 it has in the past.

17 (Whereupon, 2020.07.01 MSDE  
18 Organizational Chart was entered as Exhibit No.  
19 101 by counsel in Exhibit Share.)

20 BY MR. SCHMITT:

21 Q. Okay. I'm going to share the screen and

1 I know Ms. Sheridan was talking about having you  
2 have control over some documents. Did you get a  
3 link to the docu-share software at some point?

4 A. Yup.

5 Q. Okay. Do you have that all pulled up and  
6 everything?

7 A. Yup.

8 Q. Okay. So I'll go ahead and just do it  
9 this way for this one, but then we'll try it next  
10 time on -- for the next exhibit I'll have you pull  
11 stuff up. Because I'm going to have you scroll  
12 through some things. Okay. Do you see an  
13 organizational chart?

14 A. Yup.

15 Q. Did I do that right?

16 A. Yup.

17 Q. So I don't know what year this was. It  
18 looks like it was from 2020. It says revised July  
19 1, 2020. I've marked this Exhibit 01 -- or 101 --  
20 excuse me -- and it's a Maryland State Department  
21 of Education Organization -- Organizational Chart;

1 is that correct?

2 A. It's what it looks like.

3 Q. Okay. Where do you live in this -- in  
4 this chart?

5 A. I live on my left under the Office of the  
6 Deputy for Finance.

7 Q. Okay. And then in here would it be  
8 Division of Business Services or --

9 A. No, you can see my name --

10 Q. Oh, there you are.

11 A. -- the next block down.

12 Q. Okay. So you are the Office of Policy  
13 and Fiscal Analysis/Compliance and  
14 Monitoring/BOOST?

15 A. So those are -- those -- the Compliance  
16 and Monitoring and BOOST, etcetera, those are other  
17 programs that come under me.

18 Q. Okay. Can you explain to me, please,  
19 what is the -- the Compliance and Monitoring  
20 program?

21 A. So it's an office that is listed within

1 MSDE that was established by the state  
2 superintendent working with compliance and  
3 monitoring of local school systems and whatever  
4 else the superintendent decided that she needed  
5 them to do.

6 Q. Okay. And you said was. Is it no  
7 longer?

8 A. It no longer exists.

9 Q. Okay. When did it cease to exist?

10 A. I don't know specifically.

11 Q. Okay. But it must be recently, right,  
12 because this was July of 2020?

13 A. Yes.

14 Q. Okay. And did they have a role in BOOST  
15 compliance at some point?

16 A. Not with BOOST, no. They had a role with  
17 the textbook program.

18 Q. Okay. What function did they serve for  
19 textbooks?

20 A. They did two things. They conducted some  
21 on-site visits that included an inventory review of

1 the items that were purchased on behalf of students  
2 for nonpublic schools through the textbook program  
3 and then they also did a secondary review of  
4 handbooks as required.

5 So textbook program requires -- the  
6 governing law requires schools to submit their  
7 handbook as part of the application process for the  
8 textbook program and Office of Compliance and  
9 Monitoring staff did a supplemental handbook review  
10 for textbook program.

11 Q. Okay. And so -- well, you say they did a  
12 supplemental review. What was the -- the primary  
13 review that occurred for the textbook program?

14 A. The coordinator, the textbook program  
15 coordinator, does the primary review.

16 Q. Is that Jamie Klarman?

17 A. Yes.

18 Q. So Jamie does a primary review and then  
19 does every textbook get a secondary review?

20 A. No.

21 Q. No. What -- what would cause a school to

1 get or handbook to get a supplemental review?

2 A. So there's a two -- there's two pieces to  
3 that. The Compliance and Monitoring staff did a  
4 random sampling. I think they did 10 percent of  
5 the handbooks.

6 We just did a random -- random sampling  
7 review of 10 percent and then if -- in addition to  
8 that, if as part of Jamie's review he found  
9 language that was somewhat questionable, he would  
10 send it to them for their review. And that was  
11 their role in that.

12 Q. Okay. And then they would do a secondary  
13 review. How would they do such a review? Like  
14 what are the things that -- are they trained in a  
15 particular way or what is their competency for that  
16 review?

17 A. I'm not sure what you mean by -- I'm not  
18 sure what you're asking me.

19 Q. Sure. Sure. So they did a secondary  
20 review. What are they looking for?

21 A. They're looking for potentially --



1 they're looking for language that is questionable,  
2 that -- that is...

3 Q. Are you finished?

4 A. Yeah.

5 Q. Oh, okay. Okay. So they're looking for  
6 language that is questionable. Who are the  
7 individuals that conduct that review or did back in  
8 the day?

9 A. Did you need their names?

10 Q. Sure.

11 A. So one was Kiana Muse and the other one  
12 was Robin Lopez.

13 Q. Okay. And what training did Kiana and  
14 Robin have to perform that duty?

15 A. I believe their supervisor provided some  
16 explanation for what the expectation was and I  
17 believe they were provided guidance from the Office  
18 of the Attorney General that was developed 2017  
19 maybe I think.

20 Q. And what was the name of Kiana's and  
21 Robin's supervisor?

1 A. Rick Henry.

2 Q. Rick Henry. Okay. Were Rick, Kiana, or  
3 Robin, were any of them attorneys?

4 A. I don't know.

5 Q. Okay. And then as far as you have that  
6 branch of your -- can I call it your department  
7 or --

8 A. Sure.

9 Q. -- I don't know -- department,  
10 division. Something like that. So they -- they --  
11 Jamie does one review. They provide secondary  
12 analysis or review. Does their analysis trump  
13 Jamie's analysis or how does that work?

14 A. I don't think one trumps the other. I  
15 think that if Jamie finds language that he either  
16 -- that is either overtly discriminatory or is  
17 vague and potentially discriminatory, then he would  
18 have referred that particular handbook to the  
19 Office of Compliance and Monitoring for their  
20 review to see if they can -- you know, if they read  
21 it the same way.

1           And if they read it the same way, then it  
2 would have been forwarded to the Office of Attorney  
3 General for them to make a determination.

4           Q.       Okay. So is there -- are -- so for --  
5 you mentioned overtly discriminatory language. So  
6 let's say a handbook has what Jamie considers to be  
7 overtly discriminatory language. Does Jamie make  
8 the -- the determination of eligibility at that  
9 step?

10          A.       No.

11          Q.       Okay. Who makes that determination?

12          A.       That determination would be made after  
13 that handbook review process and in consultation  
14 with the Attorney General's Office.

15          Q.       Okay. So who makes that -- who makes  
16 that determination?

17          A.       The Attorney General's Office.

18          Q.       Okay. So what would be overtly  
19 discriminatory language as you've defined it or as  
20 you mentioned it there? What do you mean --

21                 MS. SHERIDAN: Objection to form of

1 question.

2 MR. SCHMITT: Sure. You can answer.

3 BY MR. SCHMITT:

4 Q. So when you -- okay. I'll  
5 rephrase. When you -- when you mentioned overtly  
6 discriminatory language, what did you mean?

7 A. I mean, if there is language in a  
8 handbook that would deny admissions to a student  
9 because of any of the protected classes that are  
10 identified in the governing law, then I would -- I  
11 would think that's overt language. It's very  
12 clearly discriminatory language.

13 Q. Okay. So does -- to be overtly  
14 discriminatory, does the -- does the handbook have  
15 to say we will deny admission to whatever --  
16 whatever class it is?

17 MS. SHERIDAN: Objection.

18 MR. SCHMITT: You can answer.

19 THE WITNESS: I don't know what that  
20 means.

21 MR. SCHMITT: So I don't know if -- if

1 maybe you discussed this or not. So typically how  
2 this works is Ms. Sheridan will object for the  
3 record and will advise you not to answer a  
4 question, if you're not to answer it.

5 Generally though you are to provide an  
6 answer unless it's something she tells you not to.  
7 So is that -- did I say that fairly, Ann?

8 MS. SHERIDAN: Yes.

9 MR. SCHMITT: Okay.

10 BY MR. SCHMITT:

11 Q. So just to go back to where we were, in  
12 order to be -- how did we say -- overtly  
13 discriminatory, does -- does a handbook have to say  
14 that it reserves -- that the school reserves the  
15 right to deny admission on whatever the protected  
16 class basis is?

17 A. I don't know.

18 Q. Okay. What constitutes questionable  
19 language in the handbook review process?

20 A. I didn't review any of these handbooks.  
21 I didn't evaluate any of this language. I don't

1 know.

2 Q. Okay. So give me one second, please. So  
3 let's go to an example. If you go into -- and we  
4 can give this a try on the docu-share system,  
5 ma'am.

6 (Whereupon, BCA 2020-2021 Parent-Student  
7 Handbook was entered as Exhibit No. 100 by counsel  
8 in Exhibit Share.)

9 BY MR. SCHMITT:

10 Q. Can you go to Exhibit 100, what's in the  
11 Marked Exhibits folder?

12 A. Right.

13 Q. Let me know when you have it.

14 A. I have it.

15 Q. Okay. Do you recognize --

16 MS. SHERIDAN: Paul, can you share your  
17 screen? I don't have Exhibit 100 up.

18 MR. SCHMITT: Okay.

19 BY MR. SCHMITT:

20 Q. Okay. So I've pulled up what I've marked  
21 Exhibit 100. It looks -- it looks like it's a --

1 well, I'll tell you what it is. It's the 2020 to  
2 2021 Bethel Christian Academy Parent/Student  
3 Handbook. Do you see that?

4 A. Yup.

5 Q. When your staff goes to do a handbook  
6 review and they pull up a document like this, how  
7 do they go about performing that review?

8 A. My understanding is that they review the  
9 admissions language, they review the disciplinary  
10 language, and they review the general  
11 antidiscrimination statement.

12 Q. Okay.

13 A. If in that review of any of those  
14 sections references an additional section, they  
15 would review that section as well.

16 Q. Okay. So if you go down to the -- the  
17 third page, it says Table of Contents.

18 A. Yup.

19 Q. And it's got Bethel's -- it says on pages  
20 seven through 11 are Bethel's Admissions Policy,  
21 Statement of Nondiscrimination, Statement of Faith,

1 so on and so forth. So let's go down to -- you  
2 mention -- you just mentioned that you would look  
3 at admissions policies, right? Yes?

4 A. Yes.

5 Q. Okay. Sorry. I couldn't hear you.

6 A. Sorry.

7 Q. So let's go to page seven, which includes  
8 the Admissions Policy and the Statement of  
9 Nondiscrimination. Go ahead and take a minute to  
10 look at that and study it or read through it and  
11 then when you're finished, let me know.

12 MS. SHERIDAN: Paul, I object to a line  
13 of questioning that's going to ask Ms. Gunning to  
14 analyze language on -- from a handbook that was not  
15 submitted to MSDE for -- for evaluation.

16 And you're -- I -- to the extent -- you  
17 can ask her about the process, but to the extent  
18 you want her analysis on the spot, I don't think  
19 that's fair or permissible.

20 MR. SCHMITT: Well, given Ms. Sheridan's  
21 concern, why don't we leave Exhibit 100 and we'll



1 go to another exhibit. Give me one minute.

2 (Whereupon, BCA 2019-20 Parent Student  
3 Handbook was entered as Exhibit No. 21A by counsel  
4 in Exhibit Share.)

5 BY MR. SCHMITT:

6 Q. Okay. I'm going to direct you back to  
7 your marked exhibits folder and you should see  
8 somewhere in there Exhibit 21A. I think there  
9 might be two copies, but they're the same document.

10 A. Okay.

11 Q. Do you see 21A?

12 A. Yup.

13 Q. Okay. How about we scroll down to page  
14 seven on this one. Go ahead and review that and  
15 when you're finished, please let me know.

16 MS. SHERIDAN: Okay. This will work  
17 better if I can get the Exhibit Share up so that --  
18 let me try to do that now.

19 MR. SCHMITT: Okay.

20 MS. SHERIDAN: So if you can hold further  
21 questioning, until I can do that.

1 (Brief pause.)

2 MS. SHERIDAN: Okay. Are you looking at  
3 20 -- is that what we are looking at, what's on the  
4 screen? Okay.

5 MR. SCHMITT: 21A, yeah.

6 MS. SHERIDAN: Okay. Thank you.

7 BY MR. SCHMITT:

8 Q. Okay. Ms. Gunning, have you had a chance  
9 to review it?

10 A. Yup.

11 Q. Can you identify -- and I'm going to just  
12 scroll down to make sure I'm not cutting off  
13 anything on the page. Can you identify any overtly  
14 discriminatory language on this -- on this page of  
15 the document?

16 A. I don't -- I don't see anything that I  
17 would consider overt.

18 Q. Okay. Can you identify any questionable  
19 language on this document that would warrant  
20 further review --

21 A. Yes.

1 Q. -- on this page of the document?

2 A. Yes.

3 Q. Okay. What's that?

4 A. So in the Statement of  
5 Nondiscrimination --

6 Q. Uh-huh.

7 A. -- it doesn't mention gender identity or  
8 expression --

9 Q. Okay.

10 A. -- which is included in the governing law  
11 for the textbook program.

12 Q. Okay. Do all schools that fail to  
13 include or that do not include gender identity or  
14 expression in the categories of classes protected  
15 in their nondiscrimination statements get a further  
16 review by your department?

17 A. I don't know.

18 Q. You don't know.

19 A. No.

20 Q. Why -- why would they not?

21 A. I don't know. I -- I don't know. You --

1 you asked me what I found in my review of this.

2 Q. Sure.

3 A. My staff is doing their review based on  
4 their experience. This is in fact the first school  
5 handbook that I would have evaluated per your  
6 direction.

7 Q. I'm just -- I'm asking in your capacity  
8 as MSDE's corporate rep at this point.

9 MS. SHERIDAN: Objection. You can  
10 answer. I think she's already answered.

11 MR. SCHMITT: Okay. So you don't know.

12 BY MR. SCHMITT:

13 Q. Should --

14 A. I will say this: It is Jamie's practice  
15 that if he finds something that he is concerned  
16 about, he raises it for someone else to review.

17 Q. Okay. What training have you provided or  
18 has MSDE provided for Jamie in identifying things  
19 that -- to be concerned about?

20 A. I don't know of any specific training.

21 Q. Okay.

1 A. Jamie was involved in this before I was.

2 Q. Okay. Do you know whether MSDE has  
3 provided him any training on -- relevant to  
4 handbook review?

5 A. I don't know if there has been any  
6 specific training. I know that they utilize --  
7 when they do their review, they utilize the  
8 governing law and they use the January 2018 I think  
9 memo from the AG's Office and they use their --  
10 they use their professional judgement in that that  
11 memo does not include current governing law which  
12 added gender identity and gender expression.

13 Q. Does Jamie use any other resources that  
14 account for the update in the law as guidance?

15 A. I don't know specifically, but I do know  
16 that they have used language that was found to be  
17 discriminatory in other school handbooks as  
18 examples.

19 Q. You mentioned just a minute ago that the  
20 questionable portion on this page is -- it's an  
21 omission. So it's the fact that Bethel's Statement

1 of Discrimination omits gender identity and  
2 expression; is that correct?

3 A. Yes.

4 MS. SHERIDAN: I think she responded, but  
5 we didn't hear you, Donna.

6 THE WITNESS: I'm sorry. Yes, I did say  
7 that.

8 MR. SCHMITT: Okay.

9 BY MR. SCHMITT:

10 Q. Should -- should every school that omits  
11 gender identity and expression receive a follow-up  
12 review?

13 MS. SHERIDAN: Objection.

14 MR. SCHMITT: You can answer.

15 THE WITNESS: I think the answer is  
16 likely they should receive a secondary review.

17 BY MR. SCHMITT:

18 Q. Okay. I'm going to keep on scrolling  
19 here. Let me figure out where I want to go.  
20 Okay. I think what I might do is actually go to a  
21 different exhibit and then come back to that one,

1 if we need to. Let's see here.

2 (Whereupon, 2018.01.09 Bethel Defendants  
3 1332 - MSDE and BOOST chair received legal guidance  
4 memo was entered as Exhibit No. 33 by counsel in  
5 Exhibit Share.)

6 MR. SCHMITT: I'm going to direct you to  
7 what's been marked as Exhibit 33 and that should be  
8 in your folder.

9 MS. SHERIDAN: Mm-hmm. Yup.

10 MR. SCHMITT: Is that right? Do you see  
11 Exhibit 33 --

12 MS. SHERIDAN: Yes.

13 MR. SCHMITT: -- Bethel Defendants 32?

14 BY MR. SCHMITT:

15 Q. Was this the document you were just  
16 referring to when you said Jamie uses a January  
17 2018 memorandum?

18 A. Yes.

19 Q. Okay. Thanks. I want to pull up another  
20 exhibit and if -- if you're in your folder there,  
21 you can pull it up, if you'd like. It's one page

1       though.  It's Exhibit 52.  And I've got it pulled  
2       up here.

3                   (Whereupon, 2020.04.24 Gunning Letter to  
4       Dant Denying Participation in Textbooks Program  
5       was entered as Exhibit No. 52 by counsel in Exhibit  
6       Share.)

7       BY MR. SCHMITT:

8           Q.       Okay.  I've got Exhibit 52 here.  It's  
9       MSDE Google Drive 00114.  Do you see that?

10       A.       Yup.

11       Q.       Okay.  Do you see your signature at the  
12       bottom of it?

13       A.       I do.

14       Q.       And do you see that Jamie is copied on  
15       it?

16       A.       I do.

17       Q.       Okay.  And have you -- are you familiar  
18       with this document, ma'am?

19       A.       Yes.

20       Q.       Okay.  What is this document?

21       A.       This is a letter to the principal of



1 Bethel Christian Academy in response to their  
2 application for their Aid to Nonpublic Schools  
3 Program for the '19-'20 school year.

4 Q. Okay. The '19-'20 school year. And this  
5 is dated April 24th of 2020, correct?

6 A. Correct.

7 Q. Okay. Go ahead and if you need a second  
8 to review it, go ahead and take a second.

9 (Whereupon, a brief pause was taken for  
10 document examination.)

11 A. Okay.

12 Q. Okay. So this would have been -- well,  
13 go ahead and -- go ahead and tell me about this  
14 document. So this was a letter to Claire Dant from  
15 the date we just mentioned about the textbook  
16 application, right?

17 A. Yeah.

18 Q. Okay. And why -- why was Bethel's  
19 re-application for the textbook program in 2020  
20 denied?

21 A. Well, for two reasons. One, it was a

1 late application and that the program staff were  
2 not required to review, but they did anyway and as  
3 a result, they found language in the handbook that  
4 was questionable. That language went to the Office  
5 of Compliance and Monitoring for their review.

6 Subsequently, that language was shared  
7 with the Attorney General's Office who found the  
8 language to be discriminatory and as a result, the  
9 school's application to participate in the  
10 Nonpublic Schools Program was denied.

11 Q. Okay. And what in particular was the  
12 language in Bethel's handbook that caused the  
13 denial of the application? With -- setting --  
14 setting aside the late -- the late application  
15 date.

16 A. Right. It had to do with gender identity  
17 and expression.

18 Q. Okay. It had to do with gender identity  
19 and expression. How -- as -- and I'm -- this is  
20 more of your official capacity as a corporate rep  
21 and as someone who administers the program. How

1 does school discriminate on the basis of gender  
2 identity?

3 A. I'm not a nonpublic school. I'm not  
4 sure. I'm not sure I understand your question.

5 Q. Okay. Well, let me ask you this: If a  
6 school had uniform requirements and all biological  
7 males had to wear trousers and an Oxford and a  
8 jacket and all biological females had to wear a  
9 skirt and, you know, a blouse and whatever else the  
10 uniform was, would that requirement violate or  
11 constitute discrimination on the basis of gender  
12 identity?

13 A. I'm not an attorney. I cannot make that  
14 decision, but I think if that was language in a  
15 handbook of a school that was applying to  
16 participate in this program, that language would  
17 get referred to an attorney for their evaluation.

18 Q. Okay. So does MSDE have a policy about  
19 which types of uniform requirements would violate  
20 the gender identity and expression prohib -- or  
21 discrimination prohibition?

1 A. I'm not aware of a policy.

2 Q. Okay. Does MSDE have an interpretation  
3 on whether uniform requirements would violate the  
4 gender identity or expression?

5 A. I'm not aware of that interpretation from  
6 MSDE.

7 Q. Okay. Have you ever received any -- I'm  
8 not asking what the contents of it, but have you  
9 ever received any guidance on -- on how to enforce  
10 the gender identity or expression nondiscrimination  
11 requirements from any other branch of the Maryland  
12 State Government?

13 A. I'm not aware of anything specific. I  
14 know that when we have questions about language in  
15 a handbook that could be -- it could be determined  
16 that this school does -- a particular school does  
17 discriminate, we have an obligation to share that  
18 with the Attorney General's Office.

19 Q. Okay. For your division for both  
20 textbooks and BOOST, the gender identity and  
21 expression are currently protected statuses for the

1 nondiscrimination requirement. What does it  
2 mean -- what does gender expression mean?

3 A. I don't know. I'm not an attorney.

4 Q. What does gender identity mean?

5 A. I'm not an attorney.

6 Q. What do you think it means?

7 A. I'll be honest with you, I haven't given  
8 it much thought.

9 Q. Okay. Have you thought through what  
10 gender expression means?

11 A. No.

12 Q. Okay.

13 MR. SCHMITT: And I don't think we caught  
14 that. Did you get that, Allison?

15 COURT REPORTER: Yes.

16 BY MR. SCHMITT:

17 Q. Okay. Good. All right. Let me show you  
18 another one. Let's see here. Give me just a  
19 second. I've got to find it. We're at 101 right  
20 now so I think this will be 102.

21 MS. SHERIDAN: Are you marking another

1 Exhibit 102?

2 MR. SCHMITT: Yeah. Right now.

3 MS. SHERIDAN: Okay.

4 MR. SCHMITT: Sorry, Ann. It just takes  
5 a little bit. Okay. That should pop up in your  
6 folder. I'm also going to share it here on my  
7 screen.

8 (Whereupon, 2020.01.14 Gunning Rabbi  
9 Sadwin email chain navigating GI provision in MSDE  
10 programs Bethel Defendants04557.0001 was entered as  
11 Exhibit No. 102 by counsel in Exhibit Share.)

12 BY MR. SCHMITT:

13 Q. Okay. Ma'am, I've marked this Exhibit  
14 102. It's Bethel Defendants 04557. Do you see  
15 that?

16 A. Yup.

17 Q. Okay. Go ahead and take a second to  
18 review. It's an email chain below and, you know,  
19 how that goes; when you print it out, the oldest  
20 one is on the bottom. So go ahead and take a  
21 minute to review that and once you kind of remember

1 it or are familiar with it, let us know.

2 A. Okay.

3 Q. Sorry. I'm over here talking to myself  
4 on mute. Sorry. Ms. Gunning, what's going on on  
5 Exhibit 10 -- Exhibit 102 here?

6 A. An email exchange between me and Rabbi  
7 Ariel Sadwin.

8 Q. Okay. And who is Rabbi Sadwin?

9 A. He is -- I'm not sure what his role is at  
10 the time, but he is currently -- I'm not sure what  
11 the main person title is, but president for lack of  
12 a better word for CAPE Maryland. It's an advocacy  
13 group for nonpublic schools.

14 Q. Okay. And based on the signature block,  
15 do you see it looks like he was affiliated with one  
16 of the -- perhaps one of the Jewish schools --

17 A. It's not a school.

18 Q. Or organization. Excuse me.

19 A. Right.

20 Q. -- previously?

21 A. No, I think that is his current role as

1 well.

2 Q. Okay. Okay. So he -- he made a request  
3 here to you down in November of 2019, correct?

4 A. Yup.

5 Q. Okay. What -- what was he trying to find  
6 out? And in particular, I'm looking -- I'm looking  
7 more toward the second part where he's talking  
8 about the BOOST nondiscrimination and Aid to  
9 Nonpublic School nondiscrimination requirements.

10 A. So -- so during the -- I think it was the  
11 '18 legislative session for 2019, for fiscal 2019,  
12 the governing law added additional language to the  
13 nondiscrimination language that included gender  
14 identity and gender expression.

15 A number of the Jewish schools that  
16 participate in the textbook program and technology  
17 program, the BOOST program, and potentially the  
18 aging schools program are single sex schools.

19 And apparently according to this email  
20 thread, Rabbi Sadwin and other nonpublic school  
21 advocates worked with legislators during the



1 session to make sure that or to ensure that  
2 language that was added to governing law included  
3 some other language regarding schools that have  
4 single sex schools.

5 And what he was asking is -- what he's  
6 telling us here is that the language that they  
7 asked for is not what was included in the Joint  
8 Chairmen's Report and he was asking for the program  
9 to include their preferred language in the  
10 assurances for these programs, to which the program  
11 responded we can't do that. We can -- you are --  
12 you can certainly include the language from the  
13 Joint Chairmen's Report. It is intent language; it  
14 is not law, but if you feel it is appropriate to  
15 include that language as a footnote to your  
16 assurance before signing your assurance, you can do  
17 that.

18 Q. Okay. What would including that footnote  
19 language accomplish?

20 A. I -- I honestly don't know what the  
21 individual schools' concerns were. I know that --

1 I know that -- that schools take the signing of  
2 that assurance document very seriously and that as  
3 a result of this additional language in the  
4 nondiscrimination portion of the governing law  
5 there was some concern about signing that  
6 assurance, and because they are a single sex school  
7 being in violation of that nondiscrimination  
8 language.

9 We conferred with the Attorney General's  
10 Office. We conferred to --

11 MS. SHERIDAN: I'm going to -- I'm going  
12 to object to disclosure of any attorney advice  
13 beyond what has already been disclosed in the  
14 January 2018 memorandum so I would ask you not to  
15 answer.

16 MR. SCHMITT: With respect to attorney  
17 advice, right?

18 MS. SHERIDAN: With respect to specific  
19 attorney advice. You -- Ms. Gunning, you can --  
20 you can state what information was conveyed to  
21 constituents, you know, what MSDE did in response

1 to advice, but not the particular advice that was  
2 given, if that makes any sense.

3 BY MR. SCHMITT:

4 Q. So what -- so Ms. Gunning, then what did  
5 you tell the constituents then who were concerned  
6 about compliance with the gender identity provision  
7 when they have a single sex school?

8 A. We told them they were allowed to include  
9 the exact language from the Joint Chairmen's Report  
10 as a footnote to their assurance document.

11 Q. Okay. But you said you didn't know what  
12 that would accomplish for them?

13 A. I don't -- I don't -- I'm not the one  
14 asking for the relief. I don't -- I don't know. I  
15 guess maybe I don't understand your question then.

16 Q. Okay. Well, let me ask it -- let me just  
17 go a different way with it. So if I'm a single sex  
18 school and a biological -- let's say I'm an all  
19 girls school, so female students, and a biological  
20 male applies to attend my school, does it  
21 violate -- if I deny that student admission on the

1 basis that they don't meet the criteria for  
2 admission because they're not a female biologically  
3 speaking, do I violate the BOOST law or the  
4 nondiscrimination provision in the Aid to Nonpublic  
5 Schools law by doing that?

6 MS. SHERIDAN: Objection.

7 MR. SCHMITT: You can answer.

8 THE WITNESS: So the governing law  
9 requires the textbook program to collect handbooks  
10 from schools for review as part of the application  
11 for the textbook program and that is MSDE's role in  
12 that regard.

13 BY MR. SCHMITT:

14 Q. Okay. So you don't know whether or not a  
15 school that requires its students -- a same sex  
16 school that requires its students to be of one  
17 particular biological sex violates the legal  
18 requirement?

19 A. MSDE's role is to review the information  
20 in their handbooks.

21 Q. Okay. Yeah, I -- I understand that,

1 Ms. Gunning, but if I'm a school -- and I happen to  
2 represent one of these schools -- and I'm trying to  
3 understand how to comply with the law to  
4 participate in your program, I have to know what  
5 violates the law and what doesn't violate the law.

6 So it's not just that you take the  
7 handbook and do nothing with it, right? You have  
8 to do something with the handbook once you've got  
9 it. So that's why I'm asking -- I'm not trying to  
10 be mean. I'm just trying to understand.

11 Can -- can an all -- a same sex school,  
12 so all girls school, restrict admissions to girls  
13 or not?

14 A. I think the language in the Joint  
15 Chairmen's Report allowed schools to include  
16 language in an assurance document that if they did  
17 not currently have a policy regarding gender  
18 identity or expression, that they were going to  
19 develop said policy and beyond that, I -- I don't  
20 have any information on -- beyond that.

21 Q. Do same sex schools participate in the

1 BOOST or Aid to Nonpublic Schools programs?

2 A. Yes.

3 Q. Okay. Are you in charge of compliance  
4 for those programs?

5 MS. SHERIDAN: We couldn't hear your  
6 response.

7 THE WITNESS: Yes.

8 MR. SCHMITT: Okay.

9 BY MR. SCHMITT:

10 Q. So as someone who is in charge of  
11 compliance for those programs, what actions do you  
12 take to ensure compliance with the gender identity  
13 and gender expression nondiscrimination provisions?

14 A. We do what we're required to in the law,  
15 which is collect the school's handbook as part of  
16 their application to the nonpublic schools  
17 program. Those handbooks are reviewed as part of  
18 that process.

19 Q. Okay. What -- so if a school doesn't  
20 mention anything in its -- in its -- let's say --  
21 let's stick with the same sex schools. If they

1 don't mention anything about having to be a  
2 biological sex, but it says, you know, we welcome  
3 all girls of all race, creed, color, all the  
4 protected classes, but they omit the categories of  
5 sex, gender identity, and gender expression, does  
6 that handbook get flagged for secondary or  
7 supplemental review?

8 A. If it's nondiscrimination statement  
9 omitted gender identity and expression, I would  
10 assume that it would.

11 Q. Okay. Let's go to another  
12 document. Give me a second here. This one was  
13 previously mismarked so I'm going to introduce it  
14 again, but mark it a different thing because we had  
15 a duplicate.

16 So I'm going to -- it was previously in a  
17 different deposition called 52. I'm going to  
18 redesignate it as 52A because there's another 52  
19 out there.

20 (Whereupon, Bethel Defendants1975.001 -  
21 Bethel Defendants1975.004 was entered as Exhibit

1 No. 52A by counsel in Exhibit Share.)

2 BY MR. SCHMITT:

3 Q. And you should see that in your folder,  
4 Ms. Gunning. And I'll go ahead and share my screen  
5 here. Go ahead and as usual, take a minute to  
6 review it and get familiar with it. I've marked it  
7 52A. It's Bethel Defendants 1975. And let me know  
8 when you see all that.

9 (Whereupon, a brief pause was taken for  
10 document examination.)

11 A. Okay.

12 Q. Okay. Ma'am, what's going on -- this is  
13 another email chain. It appears at the  
14 bottom. There's a pastor who sends an email to the  
15 boost.msde@maryland.gov email account and he's  
16 copied a bunch of people from religious schools it  
17 appears and then it seems like Valerie Carpenter  
18 probably fielded that, and forwarded it on to  
19 you. What's going on in this long email exchange  
20 here?

21 A. The pastor has some questions about the



1 revised nondiscrimination language in the governing  
2 law and he had asked the program for some  
3 additional information before he signs the  
4 assurance statement and program staff drafted an  
5 email response for my review.

6 Q. Okay. In his request down on Bethel  
7 Defendants 1975.003, so this would be the third  
8 page, do you see that he says, "Before I sign... --  
9 this is the Pastor Bumgarner. I think it might be  
10 Bumgarner. I'm unsure.

11 But he's -- he says, "Before I sign the  
12 amended assurance form, would somebody please  
13 further elucidate the intended meaning and  
14 implications of gender identity or expression?" Do  
15 you see that?

16 A. I do.

17 Q. And then he quotes the Merriam Webster  
18 dictionary it appears. It says the, "Medical  
19 definition of gender identity..." and he uses the  
20 first definition. "...the totality of physical and  
21 behavioral traits that are designated by culture as

1 masculine or feminine."

2 Then, he gives a second definition: "A  
3 person's internal sense of being male, female, some  
4 combination of male or female, or neither female --  
5 or male or female." Do you see that?

6 A. I do.

7 Q. And then he's asking -- asking below  
8 which definition of gender identity does the law  
9 refer to and he wants to know how the assurance  
10 form covers that; is that right?

11 A. It appears to be what he's asking.

12 Q. Okay. And so -- let's see. It comes  
13 from the BOOST account to you then on Wednesday,  
14 May 29, 2019; is that correct?

15 A. Yes.

16 Q. Okay. And who would have forwarded that  
17 email to you?

18 A. Valerie.

19 Q. So does Valerie exclusively handle that  
20 inbox?

21 A. At the time, yes. Yes.

1 Q. Okay. And she goes ahead and provides  
2 that draft response you're talking about?

3 A. Yes.

4 Q. Okay. And then what do you tell Valerie  
5 in response later in the day on May 29?

6 A. That we don't respond to requests like  
7 this, but I'll send the questions to Liz Kameen.

8 Q. Okay. And Liz Kameen is with the  
9 Attorney General's Office; is that right?

10 A. Correct.

11 Q. So does MSDE ever respond to request for  
12 clarification on the meaning of the law?

13 A. No.

14 Q. Okay. Would -- how would or what -- what  
15 would happen then to this request once you've  
16 forwarded it on?

17 A. I would --

18 Q. And not -- I'm not asking for any advice  
19 that you've ever received or anything from counsel,  
20 but what just globally would happen to this  
21 request?

1 MS. SHERIDAN: Objection.

2 MR. SCHMITT: You can answer.

3 THE WITNESS: We would -- the program  
4 staff would act accordingly with guidance received  
5 from the AG's Office.

6 BY MR. SCHMITT:

7 Q. Okay. So that -- would you keep track of  
8 that request? Would the Attorney General's Office  
9 respond to them directly? Would you follow up with  
10 the school? What -- what happens with the school?

11 A. I believe we would respond to the school;  
12 the Attorney General's Office would not.

13 Q. Did MSDE ever provide an answer to Pastor  
14 Bumgarner?

15 A. I would have to look through the  
16 records. I don't know off the top of my head.

17 Q. Has MSDE ever provided a school with an  
18 explanation of the meaning of the nondiscrimination  
19 requirements?

20 A. I would have to look through my  
21 records. I don't know off the top of my head.

1 Q. You don't know.

2 (Whereupon, a brief discussion was held  
3 off the written record.)

4 VIDEOGRAPHER: Going off the video record  
5 at 2:51.

6 (Whereupon, a brief recess was taken.)

7 VIDEOGRAPHER: This is the beginning of  
8 media unit two. We're back on the video record at  
9 3:00.

10 BY MR. SCHMITT:

11 Q. Okay. Thank you. Thank you, ladies, for  
12 getting us back on track. Okay. So we've covered  
13 explanations of the law and let's  
14 see. Ms. Gunning, you mentioned that as far as  
15 like your departments are concerned, your role in  
16 the process is you -- you collect the handbooks and  
17 conduct a review on them, correct? Is --

18 A. Yes.

19 Q. Okay. Has MSDE ever done anything  
20 supplemental to that to check into compliance with  
21 the nondiscrimination provision?

1 A. Supplement to?

2 Q. To collecting handbooks and reviewing  
3 them.

4 A. Off the top of my head I don't recall if  
5 the site visits that were conducted by Compliance  
6 and Monitoring teams looked at anything. I don't  
7 -- I can't recall off the top of my head. I'd have  
8 to look.

9 Q. Okay. Has MSDE ever received a complaint  
10 or an allegation that a student has ever been  
11 denied admission on the basis of sexual orientation  
12 from a BOOST school or a school participating in  
13 one of the Aid to Nonpublic Schools program?

14 A. Off the top of my head I don't -- I don't  
15 know.

16 Q. You don't know. Can you -- let me  
17 rephrase. Can you recall a specific allegation of  
18 discrimination in admissions against a student by  
19 one of the participating schools?

20 A. Other than the -- the allegation that was  
21 raised about Holy Trinity that was raised to the

1 BOOST Board in the fall of 2017, I'd have to do  
2 more research.

3 Q. Okay. And when you say Holy Trinity, do  
4 you mean Trinity Lutheran?

5 A. Yes.

6 Q. So outside of the -- and -- and to be  
7 clear, the complaint lodged against Trinity  
8 Lutheran, do you know whether that included an  
9 actual act of discrimination or was it just that  
10 the language in the school's handbook was  
11 discriminatory?

12 A. I think you all have the documents  
13 associated with that complaint. I'd have to review  
14 those documents to answer your question.

15 Q. Okay. But you can't recall any other  
16 instance of or an allegation of actual  
17 discrimination, right?

18 A. Off the top of my head without having  
19 time to research that further I'm -- I'm not  
20 aware --

21 Q. Okay.

1 A. -- off the top of my head.

2 Q. Okay. How -- and the same question for  
3 gender identity. Are you aware of any allegation  
4 with respect to gender identity?

5 A. Not without additional research.

6 Q. Okay. Are you aware of any allegation of  
7 discrimination for gender expression?

8 A. Again, I don't -- I'm not aware of any  
9 and I'm not -- I'm not sure if you're asking about  
10 that with respect to nonpublic schools or if you're  
11 asking with respect to public schools, which are  
12 not under my purview, but I --

13 Q. Okay.

14 A. -- that would require some research to  
15 get that information.

16 Q. Right. No, my -- my question is just  
17 about the schools for the programs that you  
18 administer, if you were aware of any.

19 A. I would have to do some research.

20 Q. But you don't recall any allegation,  
21 correct?



1           A.       Off the top of my head I cannot recall  
2 any.

3           Q.       Okay. And -- and -- okay. Do you --  
4 well, let me -- I'll just zoom out just real  
5 quick. So then how about any of the other  
6 protected classes, are you aware of any allegation  
7 of discrimination against any student in one of the  
8 nonpublic schools that are in your programs?

9           A.       Again, without additional research,  
10 that's a lot of information to retain by one person  
11 in one brain.

12          Q.       Okay. It just -- it seems like if that  
13 would have happened, it would have been the kind of  
14 thing somebody would remember, you know. Umm --

15          A.       You're -- you're asking me if I recall  
16 something that's happened over the course of the  
17 life of these programs.

18          Q.       Right.

19          A.       I'd have to look. I don't know.

20          Q.       Okay. I'm going to pull up what has been  
21 marked Exhibit 53. If you want to pull it up in

1 your own file, you can do that, but I'll share.

2 (Whereupon, 2019.04.05 Gunning exchange  
3 with Carpenter on responding to discrimination  
4 inquiry says no evidence was entered as Exhibit No.  
5 53 by counsel in Exhibit Share.)

6 BY MR. SCHMITT:

7 Q. So I've marked this document Exhibit  
8 53. It's Bethel Defendants 04799. Do you see  
9 that?

10 A. Yes.

11 Q. Go ahead and take a minute. It's an  
12 e-mail chain between Richard Cook it appears of  
13 Cockeysville, Maryland ultimately with -- or  
14 initially, excuse me, with Valerie and ultimately  
15 with you. Go ahead and familiarize yourself with  
16 this exchange and let me know when you're finished.

17 (Whereupon, a brief pause was taken for  
18 document examination.)

19 A. Okay.

20 Q. Okay. What is going on here, ma'am?

21 A. This is a constituent who -- a member of

1 the public who sent a -- an email to the BOOST  
2 program asking for information on -- how do I  
3 phrase this -- on restrictions governing a  
4 BOOST-participating school that enrolled a gay  
5 student from subsequently dismissing that student.

6 Q. Okay. And specifically in February of  
7 2019 Mr. Cook asked Valerie whether he could obtain  
8 a copy of BOOST policies which "protect a BOOST  
9 scholarship student from being expelled from school  
10 for being gay," correct?

11 A. Correct.

12 Q. And I think you said Valerie administered  
13 this email account. The BOOST -- the BOOST email  
14 account responded to him on it looks like a month  
15 and a half later on March 28th. How did the BOOST  
16 program staff respond?

17 A. They provided general information about  
18 the program and the governing law regarding  
19 discrimination.

20 Q. Okay. And I think they generally -- it  
21 might be a quotation of the nondiscrimination

1 requirement, correct?

2 A. Inaccurate quotation, but yes.

3 Q. And then Mr. Cook didn't appear to be  
4 satisfied quite with the answer so he writes back  
5 on the same day, March 28, and is it correct that  
6 he's asking for specific restrictions he means to  
7 say governing a BOOST-participating school  
8 prohibiting some -- a student who has already been  
9 enrolled from being dismissed after the fact  
10 because they're gay; is that right?

11 A. That's -- he's asking for regulations  
12 which prohibit such dismissal.

13 Q. Okay. And ultimately it's -- it looks  
14 like on April 5th you responded to him. What did  
15 you tell him?

16 A. I told him that the Board, the BOOST  
17 Board, had not been presented with evidence of what  
18 he's asking about, but if they were, they would  
19 evaluate it based on these four principles.

20 Q. Okay. What are the four principles?

21 A. That admission means acceptance as a

1 student at a school; the "law requires  
2 nondiscriminatory treatment throughout the process  
3 of acceptance of the student at the school; a bona  
4 fide admission means that the school will not take  
5 into account the student's sexual orientation when  
6 offering entry to the school, nor will the school  
7 discipline or expel a student because of the  
8 students sexual orientation. This would make  
9 acceptance at the school illusory (i.e., a sham  
10 admission.)

11 A discipline policy that focuses on  
12 conduct or behavior without regard to the sexual  
13 orientation of the student does not violate the  
14 nondiscrimination clause contained in the BOOST  
15 law; and five, a discipline policy that, on its  
16 face, singles out conduct or behavior based on the  
17 sexual orientation of the student for discipline or  
18 expulsion does violate the nondiscrimination clause  
19 contained in the BOOST law."

20 Q. Did you draft that, the full -- the four  
21 bullet points there or did you obtain that from

1 somewhere else?

2 A. That's information that is publicly  
3 available provided I think through a BOOST Board  
4 meeting, if I'm not mistaken. I'd have to look.

5 Q. Okay. So you got it from some document,  
6 some publicly available document?

7 A. I don't know that it was -- I don't know  
8 that it was a document that was publicly available,  
9 but I know that this was information that was  
10 discussed by the BOOST Board and that it was  
11 provided to this person in response to his  
12 question.

13 Q. And so you wrote at the top of this email  
14 to Mr. Cook that, "The BOOST Board has not been  
15 presented with any evidence of the student being  
16 disciplined or expelled for being gay." Is that  
17 correct?

18 A. Yup, I did.

19 Q. This was almost -- this is just a little  
20 -- excuse me -- over two years ago that you wrote  
21 that. Within the last two years, do you recall an

1 occasion of a student being disciplined or expelled  
2 from a school for being gay, a BOOST school?

3 A. I would not have any way of knowing that.

4 Q. Well, I'm asking what you remember  
5 personally. Do you remember that?

6 A. Just -- so can you repeat your question  
7 then?

8 Q. Do you re -- do you remember in the last  
9 two years, so basically since you wrote this email,  
10 so from April 5, 2019 to today, do you remember any  
11 -- being presented with any evidence that a student  
12 has -- a BOOST student has been disciplined or  
13 expelled for being gay?

14 A. I don't -- I don't recall.

15 Q. Okay. I'm going to have you go ahead and  
16 pull up 45, please, Exhibit 45.

17 (Whereupon, 2021.01.13 Analysis Summary  
18 of Bethel's compliance with assurances was entered  
19 as Exhibit No. 45 by counsel in Exhibit Share.)

20 THE WITNESS: Okay.

21 BY MR. SCHMITT:

1 Q. Okay. Do you see Exhibit 45? It's Bates  
2 stamped Bethel Defendants 2509?

3 A. Yes.

4 Q. Okay. Do you recognize this document?

5 A. I do.

6 Q. What is this document?

7 A. I believe this is a summary of the Office  
8 of Compliance and Monitoring review of Bethel  
9 Christian Academy handbook that was submitted as  
10 part of a nonpublic school program application. I  
11 believe it was for the '19-'20 school year. Yes.

12 Q. Okay. So this would have been when  
13 Bethel resupplied their handbook to get into  
14 textbooks; is that correct?

15 A. I believe so.

16 Q. Okay. What were the statements of  
17 concern that --

18 A. They're identified on this document.

19 Q. Okay. So that includes references to  
20 Genesis 1:27; Genesis 5:2; Genesis 2:18-24; 1  
21 Corinthians 7 verses -- 7:1-5; Gospel of Mark



1 10:6-9; Letter of St. Paul to the Romans 1:24-27;  
2 Romans 1:24-26; 1 Timothy 1:10. Is that correct?

3 A. That's what it says, yes, sir.

4 Q. Okay. Why were -- why were -- why were  
5 those -- Bethel's handbook language discussing that  
6 they believe that God created mankind in his own  
7 image as male and female and that marriage is a  
8 sacred union between one man and one woman, why  
9 were those items and the accompanying scripture  
10 verses flagged by -- by the compliance office?

11 A. Whoever reviewed this felt that that was  
12 questionable con -- they had concerns about the  
13 potential discriminatory nature of the language and  
14 they felt it needed further review. That's my  
15 assumption. I didn't read it or evaluate it.

16 Q. Okay. It says at the bottom, "That  
17 engaging in illegal or biblically immoral behavior  
18 at any time, including when off school campus is  
19 grounds for suspension and expulsion." Do you see  
20 that at the bottom?

21 A. I do.

1 Q. Okay. Do you see that that is listed as  
2 a statement or concern?

3 A. Yes.

4 Q. Why would a prohibition on engaging in  
5 biblically immoral behavior raise a concern for  
6 MSDE staff?

7 A. I don't know. The person who read this  
8 was obviously -- felt that this language should be  
9 reviewed by someone else as well.

10 Q. Okay. And what ultimately was the  
11 determination that was made for Bethel's  
12 re-application?

13 A. They were denied.

14 Q. Okay.

15 A. Okay.

16 Q. Give me one second.

17 (Whereupon, a brief pause was taken for  
18 document examination.)

19 Q. I'm actually going to go back to Exhibit  
20 45 for one second. Do you see that -- I forgot to  
21 ask you about that. Do you see that the other

1 thing that is flagged in the statements of concern  
2 is the requirement -- the line that, "Any conduct  
3 that's in violation of the school's Statement of  
4 Faith will be considered grounds for disciplinary  
5 action?"

6 A. I do.

7 Q. So did the MSDE staff review the school's  
8 Statement of Faith when evaluating Bethel's  
9 handbook?

10 A. I didn't evaluate it. I would assume  
11 that they reviewed anything that they felt they  
12 needed to review. I did not evaluate it. I didn't  
13 review it. So I can't speak to what an individual  
14 person did.

15 Q. I understand. Could you go ahead and  
16 pull up Exhibit 63 for me, please, Ms. Gunning.

17 A. Okay.

18 (Whereupon, 2020.02.19 Gunning Klarman  
19 email exchange on Bethel's email exchange was  
20 entered as Exhibit No. 63 by counsel in Exhibit  
21 Share.)

1 BY MR. SCHMITT:

2 Q. And I think this is an email  
3 exchange. It's kind of a long one so take your  
4 time with it. I think it's between you and Jamie  
5 Klarman from February 19, 2020. So let me know  
6 once you've kind of had a chance to look through  
7 all of that.

8 (Whereupon, a brief pause was taken for  
9 document examination.)

10 A. Okay.

11 Q. Okay. I'm going to go down toward the  
12 bottom where it looks like down on February 5th  
13 Jamie is kind of giving you an update on where  
14 different schools are in the process of getting  
15 into the programs and he said, Oak Grove Classical  
16 Christian Academy and Lighthouse Christian Academy  
17 are delayed. They might be added to the BOOST  
18 list, but they're delayed due to definition  
19 requests. Do you see that?

20 A. Yes.

21 Q. What does that mean, definition requests?

1           A.       Well, it appears on this document that  
2 Lighthouse Christian Academy signed an assurance  
3 document pending definitions on gender identity and  
4 expression.

5           Q.       Okay. Did MSDE ever provide Lighthouse  
6 or Oak Grove or any other participating school with  
7 definitions of gender identity or gender  
8 expression?

9           A.       It looks like on February 6th Jamie is  
10 noting that, "The application has not been  
11 submitted yet. Pending approval from the church  
12 due to MSDE response given last week to request for  
13 information on definition."

14          Q.       Okay. So it would have been last week  
15 from, when was that, February 6th?

16          A.       Possibly.

17          Q.       Okay. Do you know what that response  
18 was?

19          A.       (Witness shaking head.)

20          Q.       You do not. On February 19th Jamie makes  
21 a couple of notes and he mentions Bethel's

1 application -- re-application to the program. What  
2 are the -- what does Jamie tell you there?

3 MS. SHERIDAN: Objection; document speaks  
4 for itself, but you can answer, Donna.

5 THE WITNESS: Do you want me to read it  
6 to you? I don't know what you want me to do.

7 BY MR. SCHMITT:

8 Q. Yeah, you could either read or summarize,  
9 but I'll go ahead and just tee you up. He says in  
10 bullet point two on February 19th, 2020, and I'm at  
11 Bethel Defendants 04546.0004, he says, "Bethel  
12 Christian Academy has not been approved. There are  
13 three reasons why I see why they should be  
14 rejected." And what are those reasons that Jamie  
15 gives?

16 A. That the school did not submit an  
17 application prior to the deadline; that from his  
18 review, the same language that was of concern to  
19 the BOOST Board in I guess 2018 is still included  
20 in the handbook; and then he adds that there was  
21 language added to the governing law that a school

1 that is -- violates the nondiscrimination  
2 requirements is ineligible to participate for the  
3 following two years.

4 Q. Okay. And it says that he -- that Bethel  
5 registered and submitted its application on January  
6 17, 2020, correct?

7 A. Correct.

8 Q. And he notes that that was after the  
9 deadline, correct?

10 A. Correct.

11 Q. Okay. Do you know why Bethel's  
12 application was late?

13 A. No, I do not.

14 Q. Okay. Did anyone make you aware that the  
15 Maryland Attorney General's Office represented to  
16 the Federal District Court that your office would  
17 have to reconsider Bethel's application at a  
18 January 2020 hearing?

19 A. Can you say that again?

20 Q. Did anyone ever make you aware of the  
21 fact that the Maryland Attorney General's Office

1 represented to the federal court in January 2020  
2 that your office, your division would have to  
3 re-evaluate Bethel's handbook before they could be  
4 put back into the program?

5 A. Not to my knowledge.

6 Q. Okay. If you go up to February 19th of  
7 2020, this is on the Bates stamped page .0002, you  
8 had posed some questions to Jamie and Jamie is  
9 responding to them. Do you see that?

10 A. Yes.

11 Q. And he -- your questions are in black and  
12 his responses are in blue, correct?

13 A. Correct.

14 Q. Okay. And you had told -- you had asked  
15 Jamie whether anyone from Rick's staff had reviewed  
16 Bethel's handbook, correct?

17 A. Correct.

18 Q. Okay. And Rick's staff -- that's the  
19 compliance unit that we were talking about earlier?

20 A. Correct.

21 Q. Okay. And Jamie said that as of that



1 point, Bethel -- only he had reviewed Bethel and  
2 that he was going to send it to Rick's staff,  
3 correct?

4 A. Yes.

5 Q. And then that -- then that analysis that  
6 we just looked at on the last exhibit, that was the  
7 determination that Rick's staff had made after they  
8 looked at the handbook; is that right?

9 A. I think that's their summary. I don't  
10 know that they -- they weren't -- they didn't make  
11 a determination. I think it's the summary of their  
12 review.

13 Q. Got it. On February 19th, this is the  
14 same day, you respond to Jamie and thank him for  
15 the answers that he gave. Do you see that he  
16 mentioned that Bethel was given the opportunity to  
17 "correct their handbook by the BOOST Board."?

18 A. Yes.

19 Q. Okay. What do you mean by -- what did  
20 you mean when you said that?

21 A. That the school was given the opportunity

1 to revise the language in their handbook to re --  
2 to be compliant with the law.

3 Q. Okay. Do you --

4 A. What happened in this review -- and this  
5 is important -- is that a lot of schools said well,  
6 that might be the language in our handbook, but  
7 that's not our practice.

8 And so I know that from my review of the  
9 files that the BOOST Board was -- I -- I feel  
10 pretty clear that if that's not your practice,  
11 here's an opportunity to make sure that your  
12 handbook language is in line with your practice.

13 Q. Okay. Do you remember or can you  
14 identify any -- I guess -- I guess when you say  
15 that Bethel was given the opportunity to correct  
16 its handbook, I'm wondering what was the  
17 opportunity? When was that opportunity presented  
18 to Bethel?

19 A. I'd have to look for the exact date. Off  
20 the top of my head I don't know the exact date.

21 Q. Okay. If Bethel had changed its handbook

1 or provided the BOOST Board with -- or MSDE with  
2 revised handbook language, would it be eligible for  
3 the program?

4 MS. SHERIDAN: Objection.

5 THE WITNESS: It would have been reviewed  
6 by the BOOST Board and it would have been up to the  
7 Board to make a determination.

8 BY MR. SCHMITT:

9 Q. What about for the textbooks's program?

10 A. I -- I think I'm not sure what you're  
11 asking me.

12 Q. Yeah. So if -- if Bethel had changed its  
13 handbook and removed the language that MSDE staff  
14 had found concerning, would they have been allowed  
15 to be in the program?

16 A. When?

17 Q. Well, let's -- this is from 2020 so let's  
18 just say when they resubmitted their handbook.

19 A. So for '19-'20?

20 Q. Mm-hmm.

21 A. I think assuming all other application

1 requirements were met, it's possible they would  
2 have been -- their application to the textbook  
3 program would have been approved. Yeah, I think it  
4 would have to -- the two-year language from the  
5 governing law is what's making me hesitate here.

6 Q. Okay. Well, let's set aside BOOST for a  
7 second and just say textbooks, because I don't  
8 think there's a two-year requirement for textbooks,  
9 right?

10 A. I'd have to look at the law at the  
11 time. This is governing law that comes out in the  
12 Budget Bill annually and it changes every year so  
13 I'd have to look at the governing law at the time  
14 of this application.

15 Q. Okay. Do you ever remember there being a  
16 two-year penalty period for the textbooks program?

17 A. I remember there being language. What I  
18 don't remember, if it was in -- it might have been  
19 amended out in an Enrolled Budget Bill, but I'd  
20 have to go back and look.

21 Q. Okay. Okay. Thank you. Okay. Sorry.

1 I wanted to make sure actually I had used all those  
2 exhibits because I did -- I set this up a different  
3 way today to make things run faster and it's a  
4 little confusing.

5 (Whereupon, 2019.01.17 Klarman Gunning  
6 email chain on Trinity Lutheran handbook changes  
7 Bethel Defendants04581.0001 was entered as Exhibit  
8 No. 63 by counsel in Exhibit Share.)

9 BY MR. SCHMITT:

10 Q. Let me introduce -- let me actually  
11 double-check what we're on. I think that was 102  
12 so this should be 103. Whoops. So Ms Gunning, I  
13 think in your folder a 103 should have just popped  
14 up.

15 A. Yup.

16 Q. And I'll go ahead and share it. And this  
17 would have been in January of 2019. It should be  
18 an email exchange between you and Jamie.

19 (Whereupon, a brief pause was taken for  
20 document examination.)

21 A. Okay.

1 Q. Okay. So I've marked this Exhibit 103.  
2 It's Bethel Defendants 04581 and it's an email  
3 exchange in January 2019 between you and Jamie and  
4 he says, "Attached are the documents I was able to  
5 find related to the handbook issue." And the  
6 specific attachments are -- appear to be related to  
7 Trinity Lutheran Christian School; is that correct?

8 A. That's what it says.

9 Q. Then, he says, "The below diversity  
10 statement was added to their 2018 and 2019  
11 handbooks, which was -- we felt was acceptable to  
12 let them into the program." Do you see that?

13 A. I see that.

14 Q. Okay. So at this point in January of  
15 2019 gender identity and expression were required  
16 BOOST fields, correct? Or excuse me. Required or  
17 protected classes for nondiscrimination purposes  
18 for the programs; is that correct?

19 MS. SHERIDAN: Objection.

20 THE WITNESS: That's --

21 MS. SHERIDAN: You can answer.

1 THE WITNESS: I believe that's true. I  
2 believe that language was added in the 2018  
3 legislative session for fiscal year 2019.

4 BY MR. SCHMITT:

5 Q. Okay. I'm going to show you another  
6 exhibit marked 104. And on that last exhibit,  
7 Exhibit 103, the screenshot, the image from the  
8 screenshot wasn't included on that document,  
9 correct? Do you remember? I can pull it back up,  
10 but...

11 A. I have it.

12 Q. Yeah. If you could --

13 A. There's a blank box, if that's what  
14 you're asking.

15 Q. Yeah. Yeah. Okay.

16 (Whereupon, 2019.01.17 Attachment Trinity  
17 Lutheran diversity statement Bethel  
18 Defendants04584.0001 was entered as Exhibit No. 104  
19 by counsel in Exhibit Share.)

20 BY MR. SCHMITT:

21 Q. So I've just produced or introduced

1 104. I can -- it's a very small document so I can  
2 screen share it or if you could pull it up, if  
3 you'd like.

4 A. Okay.

5 Q. Okay. Do you see that?

6 A. I do.

7 Q. Take a minute to read through that.

8 (Whereupon, a brief pause was taken for  
9 document examination.)

10 A. Okay.

11 Q. Okay. So this appears to be Trinity  
12 Lutheran's Diversity Statement, correct?

13 A. That's what it's named.

14 Q. Yeah, that Jamie referenced in that email  
15 we just looked at. It says Bethel Defendants  
16 04584. It's Exhibit 104.

17 MS. SHERIDAN: Objection.

18 MR. SCHMITT: Okay.

19 BY MR. SCHMITT:

20 Q. Ms. Gunning, do you remember telling me  
21 earlier that Bethel's handbook was -- that we



1 looked at, the '18-'19 handbook, was problematic  
2 because it didn't explicitly mention the categories  
3 of gender identity or gender expression in its  
4 nondiscrimination statement?

5 A. I pointed out that those things were  
6 missing, yes.

7 Q. Okay. Are they included in Trinity  
8 Lutheran's Diversity Statement?

9 A. They don't appear to be, but this  
10 statement was also added the previous year to their  
11 handbook when that was not a component of the  
12 requirement.

13 Q. Did Mr. Klarman mention that it was in  
14 the 2019 handbook?

15 A. He mentions it was in the 28 -- 2018 and  
16 2019 handbook.

17 Q. Okay. Which he said was deemed okay,  
18 correct?

19 A. Let me go see exactly what he did say.  
20 He says, "The Diversity Statement was added to  
21 their 2018 and 2019 handbooks, which we felt was

1 acceptable to let them into the textbook program."

2 Q. Okay. And just to be clear, this  
3 statement does not include gender identity or  
4 expression, correct?

5 A. It doesn't appear to.

6 Q. Okay.

7 A. It does -- well, it does gender. It  
8 doesn't say gender identity or expression.

9 Q. Right. Did Trinity Lutheran to your  
10 knowledge get any kind of a handbook follow up or  
11 review in 2019 and 2020?

12 A. I don't know.

13 Q. You don't know?

14 A. I do not.

15 Q. I'm sorry, you cut out or I was talking  
16 -- I was probably talking over you. Sorry. Do you  
17 remember just a minute ago we were talking about a  
18 school had reached out for definitions on gender  
19 identity?

20 A. Yup.

21 Q. Let me show you another exhibit. This

1 one should be 105.

2 (Whereupon, Dunklow review of Bethel was  
3 entered as Exhibit No. 105 by counsel in Exhibit  
4 Share.)

5 BY MR. SCHMITT:

6 Q. That should pop up in your folder  
7 now. It's got a few pages, but I'll also screen  
8 share. Go ahead and take a second to review that.

9 MS. SHERIDAN: Paul, are we looking at  
10 105 now --

11 MR. SCHMITT: We are.

12 MS. SHERIDAN: -- because you had another  
13 exhibit up there on the screen share. And now  
14 you're on mute. Okay. That's better.

15 MR. SCHMITT: I forgot I was screen  
16 sharing. I'm sorry.

17 MS. SHERIDAN: You didn't reveal all your  
18 secrets so no worries.

19 MR. SCHMITT: I don't have a lot of  
20 secrets. I'm just going as I go. And I'm actually  
21 going to stop screen share for a second so I can

1 queue up the next one to save us some time.

2 (Whereupon, a brief pause was taken for  
3 document examination.)

4 THE WITNESS: Okay.

5 BY MR. SCHMITT:

6 Q. Okay. Ms. Gunning, what are we looking  
7 at in this email exchange -- well, let me -- I'll  
8 target it a little more. It appears that there's  
9 an email in April of 2019 to probably Claire Dant  
10 and Patty Wecker from you. And do you remember  
11 anything about the nature of that letter that this  
12 is referring to?

13 A. Yeah, I believe this was -- I believe  
14 this certified mail letter that's referenced is the  
15 letter that identified the funds that needed to be  
16 repaid along with options for a repayment plan that  
17 was sent to Bethel Christian Academy.

18 Q. Okay. And Claire Dant responded it looks  
19 like maybe about a week later on April 11th and she  
20 said that your letter had mentioned that the BOOST  
21 Board had restored eligibility for some schools, if

1 they revised their handbooks. Do you see that?

2 A. Yes.

3 Q. And she asked for what kind of revisions  
4 would have to be made for Bethel to be eligible for  
5 the '19-'20 school year. Do you see that?

6 A. Yup.

7 Q. Okay. You respond on the same day saying  
8 that you're going to extend their deadline. That's  
9 probably about the clawback provision I think. And  
10 then on May 2nd, so a few weeks later, Claire  
11 emails you again. Do you see that?

12 A. Yes.

13 Q. And she wanted to "follow up on my  
14 request for guidance on handbook revisions," from  
15 her email on April 11th. And then asks -- asks two  
16 things. She said, "Specifically could you tell us  
17 what kind of revisions have been determined --  
18 deemed acceptable and which provisions in Bethel's  
19 handbook are problematic?" Do you see that?

20 A. I do.

21 Q. Okay. And on May 2nd you direct her to

1 the BOOST Board's letter, which would have  
2 identified the specific language at issue in  
3 Bethel's handbook; is that right?

4 A. I let her know that I forwarded the  
5 letter that included the -- that identified the  
6 language that was at issue.

7 Q. Okay. And then the same day, so also on  
8 March -- or excuse me -- May 2nd, Claire responds  
9 and says that -- she says the letter identified the  
10 language at issue, but also said, "I'm mostly  
11 looking for guidance regarding specific revisions  
12 suggested that would be acceptable. Might that be  
13 provided?" Do you see that?

14 A. I do.

15 Q. And that's on Bethel Defendants 2602.002.  
16 And then it appears there's some communications  
17 between you and Alan Dunklow above that, correct?

18 A. Correct.

19 Q. Okay. Do you remember providing Claire  
20 Dant with any examples of revisions that could be  
21 made to the Bethel handbook?

1 A. Yes, I do.

2 Q. Okay. What did those revisions include?

3 A. They included two -- I believe it was two  
4 documents, one was maybe earlier on based on BOOST  
5 Board action and schools that had revised handbook  
6 language and then the second set was revisions from  
7 some schools that revised handbook language. I  
8 believe it would have been -- it -- I think it was  
9 actually in January of '19.

10 So there was -- there was an initial  
11 apparently set of examples of language and revised  
12 language and then that was updated to include  
13 additional schools that had made revisions to their  
14 handbook language.

15 Q. Okay. Great. Let's take a quick look  
16 here. Let's introduce this one. Okay. I'm going  
17 to try to move the Bates stamp so it doesn't block  
18 it out. Okay. So you should see in your folder  
19 here in just a second 106 pop up. Let me know when  
20 you see that.

21 (Whereupon, 2019.07.24 Revised BOOST

1 Assurance Email was entered as Exhibit No. 106 by  
2 counsel in Exhibit Share and a brief pause was  
3 taken for document examination.)

4 THE WITNESS: Yes.

5 BY MR. SCHMITT:

6 Q. Okay. Do you recognize this email?

7 A. It was an email that was sent to me.

8 Q. So this appears to be an email from  
9 Valerie Carpenter to you on the 24th of July of  
10 2019. It's stamped Bethel Defendants 1759. Do you  
11 see that?

12 A. Yes.

13 Q. Do you see that this email discusses --  
14 it might be a draft, but it appears to be something  
15 that might be sent to potential participating BOOST  
16 schools; is that correct?

17 A. Yeah, it is definitely a draft email for  
18 my review.

19 Q. Okay.

20 A. But yes, it is about the assurances.

21 Q. Okay. And this is about -- does this



1 include the update of the law to include gender  
2 identity and expression?

3 A. It includes the update of the law from  
4 the 2019 legislative session that would impact  
5 fiscal year 2020.

6 Q. Okay. And what changed to the law  
7 warranted this email?

8 A. I would have to look at the law.

9 Q. Okay. Do you see the quoted -- the law  
10 quoted on the bottom of page one?

11 A. I do.

12 Q. Okay. Is that language from the BOOST  
13 law or non --

14 A. It could be, but I -- I -- without having  
15 the law, I'm -- I'm...

16 Q. Okay.

17 MR. SCHMITT: Okay. So I think we just  
18 finished our second hour. Should we take about a  
19 10-minute break?

20 MS. SHERIDAN: That's fine with me.

21 MR. SCHMITT: I'm going -- I'm going to

1 try to get wrapped up here. I've got probably a  
2 few things I want to go through on the other side.  
3 Good with you, Eliza?

4 VIDEOGRAPHER: Yes. Would you like to go  
5 off the record?

6 MR. SCHMITT: Yeah.

7 VIDEOGRAPHER: Okay. Off the video  
8 record at 4:03 p.m.

9 (Whereupon, a brief recess was taken.)

10 VIDEOGRAPHER: This is the beginning of  
11 media unit number three. Back on the video record  
12 at 4:25 p.m.

13 BY MR. SCHMITT:

14 Q. Okay. Thanks, Ms. Gunning, for taking a  
15 break. I'm going to try to wrap up here. I'm  
16 going to have you look at Exhibit 107 and I'll  
17 screen share.

18 (Whereupon, 2021.04.14 BMIvS DEP Updated  
19 30(b)(6) Notice of Deposition to MSDE was entered  
20 as Exhibit No. 107 by counsel in Exhibit Share.)

21 BY MR. SCHMITT:

1 Q. And you're muted by the way. And I just  
2 was going to show you this and see if you  
3 recognized it as the deposition notice that you  
4 received for the 30(b)(6)?

5 A. Yeah. This -- this is an updated one  
6 with a new date. I -- mine has an original date of  
7 April 21st.

8 Q. Okay.

9 A. I can't imagine they're different. I  
10 don't know. Are they?

11 Q. Yeah, I -- if I represent to you, I --  
12 the only thing I changed was the date and the time.

13 A. Okay.

14 Q. So -- but all the rest of that looks the  
15 same or familiar to you?

16 A. Yes.

17 Q. Okay. Okay. And just to cover, you are  
18 the designee on these topics, correct?

19 A. Yes.

20 Q. Do you see -- I'm sorry. I didn't  
21 hear. Sorry about that. I was looking at a

1 different screen and I didn't hear it.

2 A. I answered yes.

3 (Whereupon, 2019-20 BOOST Report was  
4 entered as Exhibit No. 108 by counsel in Exhibit  
5 Share.)

6 BY MR. SCHMITT:

7 Q. Okay. I also introduced what should be  
8 Exhibit 108 and I just want to for identification  
9 purposes confirm that this -- it's Bates stamped  
10 Bethel-Gallagher 0587. I want to verify that this  
11 is a report on the BOOST program.

12 A. Yes, it's a statutorily required report  
13 on the BOOST program.

14 Q. Okay. So if I scroll down to -- let me  
15 screen share it again. If I scroll down to --  
16 sorry. It would be Bethel-Gallagher 0587.00  
17 --.0020, which would be like page 18, that reflects  
18 a list of all the awards given and what schools the  
19 scholarship recipients attend, correct?

20 A. Okay. So this reflects student bubble  
21 data. So these are the schools that a student who

1 was awarded a scholarship and accepted; the student  
2 is awarded the scholarship, accepted the  
3 scholarship, and selected the schools.

4 Q. Okay. So these would all be  
5 BOOST-participating schools?

6 A. I mean, I think for a large part,  
7 yes. Is it possible that there is a school in here  
8 that hasn't completed everything and might not be  
9 100 percent in good standing, that is possible.

10 Q. Okay. Well, I -- I -- yeah. Okay. So  
11 why would that -- what makes you say that that  
12 would be possible?

13 A. Because if you didn't submit your  
14 assessment data, if you didn't -- you know, if you  
15 submitted the assurances, but they weren't signed,  
16 right.

17 All that happens electronically and then  
18 staff have to go back through and manually review  
19 everything and, you know, if I haven't said this  
20 before, I will say it now; that this is a program  
21 that is immensely time- and labor-intensive and

1 there are 1.5 staff to work this program and from  
2 an order of magnitude we probably need three times  
3 that.

4 Q. Yeah, Monica -- Monica made a similar  
5 comment.

6 A. Yeah. And I'm -- I'm -- and I genuinely  
7 mean this. I'm not making excuses for anyone or  
8 anything. I'm just trying to clarify the data that  
9 you see before you.

10 Q. Sure. No. And that's very helpful to me  
11 because at this point I'm asking things just so  
12 that I can have them identified for later  
13 on. Okay. So let me -- this is interesting. Let  
14 me pull up another one here. It's does not appear  
15 to be what I thought it was, but let's introduce it  
16 and see.

17 MS. SHERIDAN: Were you pulling up  
18 another exhibit, Paul?

19 MR. SCHMITT: Yeah. I haven't introduced  
20 it yet, Ann. Sorry.

21 (Whereupon, 2018-19 BOOST Report was

1 entered as Exhibit No. 109 by counsel in Exhibit  
2 Share.)

3 MR. SCHMITT: So this should be 109.

4 BY MR. SCHMITT:

5 Q. It's only a one pager I think and I'll  
6 pull it up here. Okay. This seems to be another  
7 page reflecting some data. Do you see that,  
8 Ms. Gunning?

9 A. I see the page.

10 Q. Okay. Do you see it's Exhibit 109,  
11 Bethel Defendants 04792?

12 A. Yes.

13 Q. Okay. Have you seen this page or a  
14 similar one before?

15 A. I can't -- this is out of context so I'm  
16 -- I'm -- I'm not sure. I mean, I see that you've  
17 marked it, but I don't know where this came from or  
18 what it's in reference to.

19 Q. Right, but you don't -- you don't know if  
20 this would be a part of a different report from a  
21 --

1           A.       There's no -- the only -- there's a page  
2       number. That's it.

3           Q.       Okay. I want to circle back to something  
4       we talked about toward the beginning of the  
5       deposition where we were talking about the handbook  
6       review process and how the staff goes -- goes about  
7       that.

8                    So do you remember telling me that if the  
9       -- if you guys come across a handbook where  
10      something is vague and needs more explanation,  
11      you'll look beyond the admissions section of the  
12      handbook to other places or if there's references  
13      to other things, you'll look for those other  
14      things? You recall that?

15          A.       I recall saying that if a section that  
16      they're reviewing references an additional section,  
17      they will go onto that section and follow that  
18      path, if you will.

19          Q.       Excuse me. In those situations, does  
20      the -- does MSDE look at references beyond the  
21      handbook? So if it references another document, do



1 you request a copy of that document from the school  
2 or something like that?

3 A. I don't believe so.

4 Q. Does MSDE do any research or -- or look  
5 into schools curriculum if it's referenced in a  
6 handbook?

7 A. As part of this program and this process?

8 Q. Yes.

9 A. I'm probably going to go out on a limb  
10 here, but I would be shocked if that ever happened.

11 Q. If a program or if a handbook says -- you  
12 know, ties its admissions or discipline  
13 requirements or anything like that to let's say  
14 another document or a curriculum that's not  
15 in-house or readily available, does MSDE ever flag  
16 or look at -- look for those things?

17 MS. SHERIDAN: Objection.

18 THE WITNESS: They --

19 MS. SHERIDAN: You can answer, Donna.

20 THE WITNESS: I don't know of an instance  
21 where that has occurred.

1 BY MR. SCHMITT:

2 Q. Okay. If a handbook references like  
3 human sexuality or something like that and then  
4 references an external document, does MSDE ever  
5 look for that external document?

6 A. I don't know of an incidence where that  
7 has occurred.

8 Q. Okay. Okay. When Bethel resubmitted  
9 their application for the textbook program in 2020,  
10 so it would have been last -- for the last school  
11 year, did you have any conversations with the BOOST  
12 Board or members of the BOOST Board about Bethel's  
13 reapplication?

14 A. Not that I recall.

15 Q. Did Bethel's request get forwarded to the  
16 BOOST Board?

17 A. I'm sorry, I can't hear you.

18 Q. Sorry. Did Bethel's request for  
19 re-admission and their application get forwarded to  
20 the BOOST Board?

21 MS. SHERIDAN: Objection.

1 THE WITNESS: Not to my knowledge and I  
2 can't imagine why it would have because they're not  
3 -- this was an application for the textbook, the,  
4 you know, nonpublic schools program, which is the  
5 Nonpublic Schools Textbook and Technology program  
6 that the BOOST Board is not -- does not have  
7 oversight over that program.

8 BY MR. SCHMITT:

9 Q. Okay. Have you had any conversations  
10 about Bethel with the BOOST Board or any members of  
11 the BOOST Board?

12 MS. SHERIDAN: Objection.

13 THE WITNESS: No --

14 MR. SCHMITT: I'm sorry, you cut  
15 out. Was it no?

16 MS. SHERIDAN: Objection to form of the  
17 question.

18 MR. SCHMITT: No. No. No. Not -- not  
19 you, Ann. I didn't hear Donna's response.

20 THE WITNESS: Okay. So can we do the  
21 question again?

1 BY MR. SCHMITT:

2 Q. Yeah. Let me rephrase. Have you -- have  
3 you ever talked about Bethel with any member of the  
4 BOOST Board in your recollection? Do you remember  
5 talking to anyone about Bethel?

6 A. I honestly don't know. I -- I -- it's  
7 possible that there was conversation about the --  
8 you know, there were some things that were left  
9 unfinished when Monica left and I took over in  
10 terms of invoicing schools and things like that.

11 So I mean, it is possible that there was  
12 a conversation simply to make sure that the data  
13 was accurate or something along those lines, but I  
14 don't -- I don't recall and I can't say for certain  
15 that that didn't happen.

16 Q. Okay. Okay. How often do you interact  
17 with members of the BOOST Board?

18 A. Probably, I don't know, maybe fourish  
19 times a year. Usually to communicate the  
20 Governor's Allowance, then Enrolled Budget Bill,  
21 then an update on -- usually we do the Governor's

1 Allowance and the release of the application  
2 process for that year.

3 And then in the spring with the actual  
4 Enrolled Budget Bill allocation -- you know, what  
5 the appropriation is and then an update on how the  
6 applications are going.

7 And then we usually will have more  
8 communication in the late spring, early summer so  
9 that the -- the law requires MSDE to rank order the  
10 eligible applicants and then the BOOST Board has to  
11 determine an award amount and the process for --  
12 not the process, but the -- how they want to  
13 allocate those award amounts.

14 Q. Okay. Do you ever have one-on-one  
15 interactions with BOOST Board members or are your  
16 conversations in the context of meetings usually?

17 A. Okay. You're fading on me. Can you do  
18 that one again?

19 Q. Sorry. Do you -- do you typically have  
20 one-on-one conversations with BOOST Board members  
21 or is it in the context of group meetings?

1 MS. SHERIDAN: Objection.

2 THE WITNESS: So --

3 MR. SCHMITT: You can answer.

4 THE WITNESS: So I think it depends on  
5 what you're referencing. You know, if there's an  
6 in-person meeting, which we haven't had in a while,  
7 but, you know, as people are coming and going, I'm  
8 having conversations with folks. One of the board  
9 members used to be my boss so...

10 Q. Is that Dr. Grasmick?

11 A. Yes.

12 Q. I just introduced Exhibit 110. Go ahead  
13 and pull that up and take a look at it and see if  
14 you recognize it.

15 (Whereupon, Enrolled HB 588 was entered  
16 as Exhibit No. 110 by counsel in Exhibit Share.)

17 BY MR. SCHMITT:

18 A. You got lucky we moved this to the 28th,  
19 didn't you?

20 Q. All right.

21 MS. SHERIDAN: Are you asking for her to

1 read this entire document, Paul?

2 MR. SCHMITT: What's going on is as she's  
3 looking at it, I'm also trying to find the exact --

4 THE WITNESS: I'm trying to search it.  
5 If you go in control find, hit control F, and then  
6 do R00A.03, you'll get where you want to go.

7 MR. SCHMITT: Yeah, but is it searchable?  
8 Oh, it is. I tried this the other day and it  
9 wasn't searchable.

10 THE WITNESS: I've seen this movie  
11 before.

12 MR. SCHMITT: Yeah.

13 THE WITNESS: And also, do you know when  
14 you pulled this document?

15 MR. SCHMITT: Like just recently. Within  
16 the last day or so.

17 THE WITNESS: Okay.

18 MR. SCHMITT: This is R -- what did you  
19 say, Donna, R00 --

20 THE WITNESS: It's R00A.03.

21 MR. SCHMITT: Mm-hmm.

1 THE WITNESS: Yeah -- hold on. I'll get  
2 it from somewhere else. Hold on.

3 MR. SCHMITT: There we go.

4 THE WITNESS: All right. So you want to  
5 go, I'm assuming, to page 153. Wait a minute. Let  
6 me make sure.

7 MR. SCHMITT: Yeah, I think that might be  
8 a little low.

9 THE WITNESS: No, it's not. You're  
10 right. Okay. So you want to go to page 155.

11 MR. SCHMITT: There we go. Thank you.

12 BY MR. SCHMITT:

13 Q. Okay. So if you look at page 156 --  
14 well, actually, strike that. If you go back up to  
15 where you're talking about on page 155, you  
16 identified R00A03.04, Aid to Nonpublic Schools, and  
17 then if you go down, it's got some eligibility  
18 requirements at the end of that page.

19 And then it has a subsection below that,  
20 including complying with Title VI of the Civil  
21 Rights Act 1964 and subsection 4, which is, "submit



1 its student handbook or other written policy  
2 related to student admissions for the Maryland  
3 State Department of Education for review." Do you  
4 see that?

5 A. I'm trying to get there. Give me one  
6 second.

7 Q. Oh, go ahead. Take your time.

8 A. I was finding it for you and then I  
9 couldn't get into your document to me. Hold on.  
10 All right. Here we go. okay. So on 155 --

11 Q. Mm-hmm.

12 A. -- is this what you're asking about?

13 Q. Yeah.

14 A. Okay. And then -- okay. So I see 155  
15 and then what is your question?

16 Q. If you go down to subsection 4 on 156 --

17 A. Yup.

18 Q. -- do you see the -- it appears that the  
19 handbook requirement has been added into the  
20 legislation --

21 A. Yes.

1 Q. -- marked by an underline; is that  
2 correct?

3 A. Yup.

4 Q. Okay. Was the handbook review  
5 requirement previously in the -- in previous  
6 versions of the law?

7 A. Yes.

8 Q. It was?

9 A. Yes.

10 Q. Okay. If you go down to I guess it would  
11 be page 157 and then it starts -- it starts on the  
12 bottom of 157.

13 A. Line 31?

14 Q. Yes. Do you see the nondiscrimination  
15 requirement is listed there?

16 A. Mm-hmm.

17 Q. Okay. So if you say mm-hmm, the  
18 transcript won't pick it up.

19 A. I'm sorry?

20 Q. So if you -- if you say mm-hmm --

21 A. Mm-hmm.

1 Q. -- the transcript, it doesn't show up on  
2 the transcript as a yes.

3 A. Oh, I'm sorry.

4 Q. No, that's okay. I should have explained  
5 that at the beginning, but I forgot. And do you  
6 know -- have you ever -- by the way, have you ever  
7 been involved in a lawsuit before?

8 A. No, sir.

9 Q. Okay. Is this your first deposition?

10 A. Yes, sir.

11 Q. Okay. I meant to ask that at the  
12 beginning. So the reason why I ask a lot of  
13 questions that seem stupid is that the final  
14 product of this will be a transcript that someone  
15 will read.

16 So a lot of times I'm asking a question  
17 to help the ultimate reader of the transcript  
18 understand what we're talking about, if we're  
19 talking about a document. So anyway. Okay. So  
20 you see the nondiscrimination requirement?

21 A. Yes.

1 Q. Do you see on 158, page 158, of House  
2 Bill 588 it says -- well, actually, it's the last  
3 line of 157 and then it continues into 158.

4 It says, "Nothing herein shall require  
5 any school or institution to adopt any rule,  
6 regulation, or policy that conflicts with its  
7 religious or moral teachings." Do you see that?

8 A. Yes.

9 Q. How does your division or your department  
10 interpret that provision of the law?

11 A. I -- you know, none of us are lawyers so  
12 I don't think we interpret that. I think the  
13 language is -- is clear that they're -- they're  
14 saying that a school doesn't have to adopt any  
15 rule, regulation, or policy that conflicts with  
16 this -- with its religious or moral teaching and if  
17 you're asking me from a -- for a legal definition  
18 of what that means, I can't answer that for you.

19 Q. Mm-hmm. Okay. So if -- if I'm a school  
20 and I'm applying to -- let's say I'm a school and I  
21 want to know -- and I believe that, you know, as a

1 religious matter that human beings are created as  
2 male and female in the image and likeness of God  
3 and I see that I can't discriminate under the law;  
4 I want to be in BOOST because I want to help  
5 underserved children, but I see that the law here  
6 requires that I not -- I agree to not discriminate  
7 on gender identity or expression.

8 How do I practically -- and how do I  
9 practically apply this? So -- so if I understand  
10 that and I'm asking you well, I've got this  
11 religious belief, right, as a school, how do you --  
12 not asking for a legal definition, but how do you  
13 practically apply this provision that says that the  
14 schools don't have to adopt a policy that conflicts  
15 with those -- with their religious beliefs?

16 MS. SHERIDAN: Objection.

17 THE WITNESS: Are you waiting for me?

18 BY MR. SCHMITT:

19 Q. Mm-hmm.

20 A. Can you -- that is so confusing.

21 Q. Do you want me to give a shorter version

1 of that question?

2 A. Yeah.

3 Q. Okay. So if a school asks you I believe  
4 this thing, I don't -- I don't intend to  
5 discriminate, but I also have these beliefs about,  
6 you know, people being created in the image and  
7 likeness of God as male and female, if they have  
8 that conflict there, how do you apply provision in  
9 the law here -- how does the MSDE apply the  
10 provision in the law here that the schools don't  
11 have to adopt rules, regulations, or policies that  
12 conflict with their religious or moral teachings?

13 MS. SHERIDAN: Objection.

14 THE WITNESS: But still answer?

15 BY MR. SCHMITT:

16 Q. Yes.

17 A. Okay. So I don't know that that -- I  
18 don't think that MSDE is required to do anything  
19 about that. This is a -- this is a voluntary  
20 program. Schools can choose not to  
21 participate. This is not an entitlement program

1 for families or for schools.

2 If the school chooses to participate,  
3 then the school is going to be held accountable for  
4 the requirements in the law. That particular  
5 passage that you reference doesn't require MSDE to  
6 do anything.

7 Q. Okay. But if I want -- but is the BOOST  
8 scholarship a public benefit program?

9 A. I think I would need to see a definition  
10 of a public benefit program before I answered that.

11 Q. Okay. So is -- is it a benefit that is  
12 generally available to qualifying members of the  
13 public?

14 A. I'm sorry, you keep fading out.

15 Q. Sorry. Is the -- are BOOST scholarships  
16 benefits that are available to qualified members of  
17 the public?

18 MS. SHERIDAN: Objection. You can  
19 answer.

20 THE WITNESS: So the BOOST program  
21 provides scholarships for certain eligible low

1 income families to use at a participating nonpublic  
2 school.

3 BY MR. SCHMITT:

4 Q. Okay. If I'm a school and let's say a  
5 child wants to go to my school and I believe -- I  
6 have religious beliefs that males should dress one  
7 way, females should dress another way, does the  
8 gender identity or expression provision require me  
9 to adopt a rule, regulation, or policy that allows  
10 males to dress in a way that females are to dress  
11 under my religion?

12 MS. SHERIDAN: Objection. You can  
13 answer.

14 THE WITNESS: I'm not an attorney. I  
15 cannot -- I cannot define this issue for  
16 you. MSDE's role is to administer this program in  
17 accordance with this governing law.

18 We are required to review handbooks for  
19 schools that wish to participate in the Textbook  
20 and Technology program. We do that.

21 If you apply and are -- are approved to



1 participate in the textbook program, you then have  
2 access to the BOOST program and the aging schools  
3 program and a new safety -- school safety grant  
4 program that may not even be a law anymore, but  
5 that's -- that's what MSDE does.

6 Q. Okay. So -- so just as someone who  
7 oversees the department that administers the  
8 program, do you know what this language means that  
9 I've highlighted here?

10 A. As an educated professional, I can read  
11 it and I can understand what it means. Can I  
12 interpret it from a legal standpoint, no.

13 Q. Well, okay. So let's do that. Go ahead  
14 and read it for me. Just this line starting on --

15 A. "Nothing herein shall require any school  
16 or institution to adopt any rule, regulation, or  
17 policy that conflicts with its religious or moral  
18 teachings."

19 Q. Okay. So what does that mean not as a  
20 legal analysis?

21 A. It means that you are not required to

1 adopt a rule, a regulation, or a policy that  
2 conflicts with a school's religious or moral  
3 teachings.

4 Q. Okay. So if I'm a school and I've got  
5 religious beliefs that students have -- based on  
6 their biological sex have to dress one way or  
7 another and that's my policy, do I have to get rid  
8 of that policy to participate in BOOST or textbooks  
9 or aging schools or any of them?

10 MS. SHERIDAN: Objection.

11 MR. SCHMITT: You can answer.

12 THE WITNESS: I don't think this issue  
13 has been raised to MSDE previously to your  
14 hypothetical example and as a result, I don't know  
15 how the Agency would handle that. It would have to  
16 be raised before the Agency.

17 BY MR. SCHMITT:

18 Q. Does the school have -- if the school has  
19 segregated restrooms by biological sex, does --  
20 and -- does the school have to allow those who  
21 identify as transgender to use the restroom of

1 their choice?

2 A. Are -- are you talking about nonpublic  
3 schools or public schools?

4 Q. I'm talking about the schools  
5 participating in this program. And --

6 A. Again, that issue has not been raised  
7 before so I don't know how the program would  
8 administer that issue.

9 Q. Okay. Can I participate in any of these  
10 programs if my handbook says that I believe that  
11 all people are created in the image and likeness of  
12 God as either male or female?

13 MS. SHERIDAN: Objection. You can  
14 answer.

15 THE WITNESS: I don't know. Have you  
16 submitted an application? Have you submitted all  
17 the other documents? Have you signed the  
18 assurances? Have you submitted your handbook? Are  
19 you registered? You -- are you registered to  
20 operate or authorized to operate in the state as a  
21 nonpublic school?

1 BY MR. SCHMITT:

2 Q. If I signed -- let's say I met all those  
3 requirements and I signed the assurance form and my  
4 handbook said that I believe that all human beings  
5 are created in the image and likeness of God as  
6 male or female, can I participate in the program  
7 then?

8 A. Your handbook would be reviewed by the  
9 program staff and that language would be evaluated  
10 as part of their regular process and that -- the  
11 decision would be dependent on that review.

12 Q. Okay. So as the rep for the MSDE, would  
13 that language be flagged?

14 A. Say that first part again.

15 Q. Given that you're the rep for the MSDE,  
16 would that language be flagged?

17 A. What am I?

18 Q. You're the designated representative  
19 for --

20 A. Oh, okay.

21 Q. -- MSDE.

1 A. Okay. You said rep.

2 Q. Sorry.

3 A. I'm like I'm trying -- I don't know what  
4 you're saying here. So as the rep for MSDE, what  
5 are you asking?

6 Q. Would the language in the handbook that I  
7 just mentioned, that everyone is created in the  
8 image and likeness of God as either male or female,  
9 would that be flagged?

10 A. I don't know. It depends on the person  
11 who is reading it. There's more -- there's more  
12 involved than just one sentence in reading a --  
13 reviewing a handbook.

14 Q. Okay. What if you were reviewing it for  
15 the first time?

16 A. I don't review and evaluate these.

17 Q. Okay. But just as an educated person  
18 that understands the English language.

19 A. I wouldn't make a decision based on that  
20 statement alone.

21 Q. Okay. What else would you look at in

1 that circumstance?

2 A. I'd have to look at the entire  
3 handbook. I'd have to look at it in the context of  
4 all of the admissions policy, the discrimination  
5 statement, discipline policies. I'd have to look  
6 at all of it and any other path that would be  
7 identified as a result of that review.

8 Q. Okay. Have you ever received inquiries  
9 or spoken to anybody from the media about the  
10 handbook review issue or Bethel?

11 A. Not to my knowledge. It's possible that  
12 our communications staff may have received a  
13 communication and forwarded it to me, but that  
14 would have been forwarded either directly to the  
15 AG's Office or through senior leadership.

16 Q. But -- so you don't recall any specific  
17 interaction for yourself?

18 A. No.

19 Q. Do you recall any interaction with the  
20 Maryland PTA about the handbooks in any of the  
21 programs?

1           A.       I know that the PTA sent a letter to the  
2 BOOST Board identifying a particular school and I  
3 believe it was language in their handbook that was  
4 concerning.

5           Q.       Okay. And are we talking about the  
6 Trinity Lutheran situation?

7           A.       I'm assuming that's what you're asking me  
8 about.

9           Q.       Okay. But since -- since then have you  
10 had any interaction with the Maryland PTA?

11          A.       I don't believe so. I personally have  
12 not and I don't believe the programs have.

13          Q.       Okay. Do you recall any interaction with  
14 anyone from like the ACLU, the American Civil  
15 Liberties Union?

16          A.       I'd have to do some research. I don't  
17 recall.

18          Q.       Okay. Give me one second. I think I  
19 might be wrapping up here.

20                 VIDEOGRAPHER: Would you like to go off  
21 the record?

1 MR. SCHMITT: No, I don't think this will  
2 take more than a few seconds.

3 VIDEOGRAPHER: Okay.

4 BY MR. SCHMITT:

5 Q. Okay. Ms. Gunning, what can you tell me  
6 about conversations that you have or have had with  
7 nonschool constituencies we'll call them? So like  
8 maybe big Maryland Catholic Conference or one of  
9 the Archdiocese, that kind of thing. How often do  
10 you or MSDE interact with representatives from  
11 those organizations?

12 A. The superintendent has a Nonpublic  
13 Schools Workgroup that meets twice a year. The  
14 textbook program pre-COVID pandemic had a -- had a  
15 training program webinar-type -- I think it was  
16 twice a year.

17 They would do it in the fall when they  
18 were opening the application and then again when  
19 they were opening the ordering system.

20 The BOOST program has a -- typically a  
21 training session for participating schools on all



1 of the reporting requirements for the BOOST  
2 program. Typically those representatives for any  
3 participating schools in any of these programs the  
4 BOOST Board meetings are open to the public so  
5 typically they're -- they're there.

6 So are you asking about through current  
7 or about this program or -- help me with some  
8 boundaries here.

9 Q. Yeah. Yeah. So let's just take for  
10 gender identity. When the gender identity and  
11 expression nondiscrimination requirements are added  
12 to the law, what interaction did the MSDE have with  
13 members of those constituencies?

14 A. So I don't believe there was any -- there  
15 may have been an email from the Catholic  
16 Conference. So I know there was an email from  
17 Rabbi Sadwin representing the Jewish day schools I  
18 believe and I think Garrett O'Day from Catholic  
19 Conference might have been a part of an email where  
20 they were concerned about the language.

21 And their concerns were essentially that

1 they met with legislators and thought that the  
2 legislators were going to include the language they  
3 wanted in the annual Joint Chairmen's Report that  
4 provides legislative intent, context for the Budget  
5 Bill and apparently the language that ended up in  
6 the JCR report was not what these entities had  
7 asked for.

8 So they were looking to us to provide  
9 some relief and to use -- use language that they  
10 had asked legislators to put in and MSDE's response  
11 after consultation with the AG's Office was you  
12 can't -- we're not -- if it wasn't in the JCR  
13 report, it can't be -- we can't consider it. So  
14 that's the extent of off the top of my head what I  
15 recall about the issue you raised.

16 Q. Okay. You mentioned the secretary's  
17 workgroup earlier.

18 A. Yup.

19 Q. Who -- who does that consist of?

20 A. Who does what consist of?

21 Q. Like who is on the workgroup?

1           A.       Any nonpublic school that wants to --  
2       that participates in any of -- any of these  
3       programs.

4           Q.       Sure.

5           A.       There's a -- there's a lot -- this is --  
6       there's a lot of interaction with nonpublic schools  
7       through federal equitable services. You know, with  
8       federal grants there's an equitable services  
9       requirement so there's interaction with nonpublic  
10      schools in that regard. And so it's -- it's not  
11      like a ten-member workgroup. It's 75 people that  
12      come.

13          Q.       It's a larger entity?

14          A.       Yeah. Any nonpublic school who chooses  
15      to participate can come to those meetings and  
16      they're -- it's not that this is a small workgroup  
17      that's open to all these people. It's an  
18      opportunity to share information to these schools  
19      that's necessary.

20          Q.       Okay. With respect to administering your  
21      programs, who sets like deadlines for different

1 application timelines? Is that all internal or is  
2 any of that driven by law?

3 A. I don't think any of it is driven by  
4 law. There might be something in aging schools  
5 that has a timeframe with it because those are  
6 typically capital projects that have a longer time  
7 frame so it's not a typical one year funding  
8 authority so -- but other than that, the timelines,  
9 deadlines -- I'm assuming you're referencing  
10 application deadlines?

11 Q. Sure.

12 A. So the textbook program and the aging  
13 schools program have operated as current  
14 year-funded programs and in order -- because for  
15 BOOST program you have to be eligible for textbook,  
16 the eligibility goes to the prior year because  
17 BOOST has to be applied, awarded for the following  
18 fall so it crosses a fiscal year.

19 Q. Okay.

20 MR. SCHMITT: I think, Ann, that's all  
21 I've got.

1 THE WITNESS: Oh, thank you, Jesus.

2 MS. SHERIDAN: I have no questions for  
3 Donna. Allison, I would like a copy of the  
4 transcript and Eliza, I won't be ordering a video  
5 at this point in time.

6 MR. SCHMITT: We will take a copy of  
7 both, the video and the transcript.

8 MS. SHERIDAN: Also, Donna, you have the  
9 right to read and sign the transcript and review it  
10 in order to -- you're looking for, you know,  
11 typographical errors and -- and that type of thing,  
12 not actually changing the substance of your  
13 responses, but just reviewing it for accuracy.

14 And it's something you can waive, but I  
15 typically recommend that witnesses not waive it and  
16 that they read and sign.

17 THE WITNESS: Is there a deadline?

18 MS. SHERIDAN: Sorry?

19 THE WITNESS: Is there a deadline?

20 (Whereupon, a brief discussion was held  
21 off the written record regarding read and sign.)

1 MS. SHERIDAN: Yeah, so if you don't get  
2 to it, it'll be waived, but at this point in time I  
3 would not waive it.

4 THE WITNESS: Okay. I don't waive it.

5 VIDEOGRAPHER: I'll get us off the video  
6 record. This concludes today's videorecorded  
7 deposition. We are going off the video record at  
8 5:14 p.m.

9 (Whereupon, having not waived reading and  
10 signing, the examination of DONNA GUNNING concluded  
11 at 5:14 p.m.)

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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 13th day  
18 of May, 2021.

  
\_\_\_\_\_

19

20

Allison L. Shearer, Notary Public

21

My Commission Expires March 18, 2022

1 Ann Sheridan, Esquire  
2 asheridan@oag.state.md.us

3 May 13, 2021

4 RE: Bethel Ministries, Inc. v. Salmon, Karen Et Al.  
5 4/28/2021, Donna Gunning (#4551826)

6 The above-referenced transcript is available for  
7 review.

8 Within the applicable timeframe, the witness should  
9 read the testimony to verify its accuracy. If there are  
10 any changes, the witness should note those with the  
11 reason, on the attached Errata Sheet.

12 The witness should sign the Acknowledgment of  
13 Deponent and Errata and return to the deposing attorney.  
14 Copies should be sent to all counsel, and to Veritext at  
15 cs-midatlantic@veritext.com

16  
17 Return completed errata within 30 days from  
18 receipt of testimony.

19 If the witness fails to do so within the time  
20 allotted, the transcript may be used as if signed.

21  
22 Yours,  
23 Veritext Legal Solutions



1 Bethel Ministries, Inc. v. Salmon, Karen Et Al.  
2 Donna Gunning (#4551826)

3 E R R A T A S H E E T

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24 Donna Gunning Date

25

1 Bethel Ministries, Inc. v. Salmon, Karen Et Al.

2 Donna Gunning (#4551826)

3 ACKNOWLEDGEMENT OF DEPONENT

4 I, Donna Gunning, do hereby declare that I  
5 have read the foregoing transcript, I have made any  
6 corrections, additions, or changes I deemed necessary as  
7 noted above to be appended hereto, and that the same is  
8 a true, correct and complete transcript of the testimony  
9 given by me.

10

11

\_\_\_\_\_

\_\_\_\_\_

12 Donna Gunning

Date

13 \*If notary is required

14 SUBSCRIBED AND SWORN TO BEFORE ME THIS

15 \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.

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19 NOTARY PUBLIC

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[0002 - 4551826]

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[email - female]

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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 51**

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND  
NORTHERN DIVISION

BETHEL MINISTRIES, INC., )  
)  
*Plaintiff,* )  
)  
v. ) Case No. 1:19-cv-01853-SAG  
)  
DR. KAREN B. SALMON, *et al.*, )  
)  
*Defendants.* )  
\_\_\_\_\_ )

**PLAINTIFF'S AMENDED NOTICE OF RULE 30(b)(6) DEPOSITION**

PLEASE TAKE NOTICE that pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure, Plaintiff Bethel Ministries, by and through counsel, will take the deposition of the Maryland State Department of Education (MSDE) through one or more officers, directors, agents, or other representatives who shall be designated to testify on MSDE's behalf regarding all information known or reasonably available to MSDE with respect to the subject matters identified in the Attachment. Pursuant to the Court's discovery guidelines, MSDE must provide the name(s) of the designated person(s) and the areas that each person will testify to by a reasonable date before the deposition is scheduled to begin. *See* Local Rules, Appendix A, Guideline 5.

The deposition shall commence on **April 28th, 2021 at 1:30 p.m.** through virtual videoconferencing and will continue from day to day until complete. The deposition will be recorded by stenographic means and through electronic video recording before an officer authorized to administer oaths. The deposition will be used for the purposes of evidence and all other purposes consistent with the Federal Rules of Civil Procedure and the taking thereof will continue until completed.

Respectfully submitted this 14th day of April, 2021.

By: /s/ Paul Schmitt

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*Attorneys for Plaintiff*

*\*Admitted Pro Hac Vice*

**ATTACHMENT**

**Definitions and Instructions**

1. “Aging Schools Program” refers to the program described in 2016 Md. Laws ch. 27, 9-10, and continued through subsequent years.
2. “And” means “and/or.”
3. “Any” includes the word “all” and vice-versa.
4. “BOOST” refers to the “Broadening Options and Opportunities for Students Today” program, first established in 2016 Md. Laws ch. 143, 130-135, and continued through subsequent years.
5. “Communication” or “communications” means any oral conversation, discussion, letter, telegram, memorandum, electronic mail, facsimile transmission, instant message, text message, communication via social media, voicemail message, and any other transmission of information in any form, both oral and written.
6. “Document” or “documents” shall have the meaning set forth in Fed. R. Civ. P. 34(a)(1)(A).
7. “Employee” means, unless otherwise indicated, any person who currently or previously worked for the Maryland State Department of Education.
8. “Including” means “including but not limited to.”
9. “Or” means “and/or.”
10. “Person” means the plural, as well as the singular, and includes a natural person, governmental unit or entity, firm, business, association, partnership, corporation, trust, public entity, joint venture, or any other form of business organization, arrangement, or other legal entity, and includes any and all of such person’s principals, agents, employees, attorneys, consultants, and other representatives.

11. “Relating to” or “related to” means to refer to, reflect, concern, pertain to, or in any manner be connected with the matter discussed in a way that would make any fact at issue in this case appear more or less true.

12. “Textbook and Technology Program” refers to the program described in 2016 Md. Laws ch. 143, 128-130, and continued through subsequent years.

### **Topics**

In accordance with Fed. R. Civ. P. 30(b)(6), the Maryland State Department of Education (MSDE) shall identify, designate, and produce one or more officers, directors, managing agents or other person(s) most knowledgeable to testify about the following matters for examination.

1. The scope and extent of MSDE’s administration and regulation of the BOOST Program, Textbooks and Technology Program, and the Aging Schools Program.

2. MSDE’s policies, procedures, and practices for determining a school’s eligibility for participation in the BOOST Program, Textbooks and Technology Program, and the Aging Schools Program.

3. MSDE’s policies, procedures, and practices for reviewing school handbooks for the purposes of ensuring compliance with the requirements of the BOOST, Textbooks and Technology, and Aging Schools programs.

4. MSDE’s policies, procedures, and practices for determining whether to suspend or expel a school from participation in the BOOST Program, Textbooks and Technology Program, and the Aging Schools Program.

5. Any documents and communications related to any complaint or allegation of discrimination, including but not limited to sexual orientation and gender identity discrimination, made to MSDE against a school participating in the BOOST Program, Textbooks and Technology Program, and the Aging Schools Program.



6. Any documents and communications related to the Maryland Parent Teacher Association's complaint or allegation in 2017 that at least one BOOST-eligible school had policies that discriminated against students based on sexual orientation.

7. Any documents and communications related to any school that has been deemed ineligible, suspended, or expelled from the BOOST Program based, at least in part, on the school's purported or actual noncompliance with the BOOST Program's nondiscrimination provisions, including but not limited to sexual orientation and gender identity discrimination.

8. Any documents and communications related to MSDE's review of student handbooks or policies for those schools identified in Defendants' Answers to Plaintiff's Interrogatory No. 7.

9. Any documents and communications related to MSDE's eligibility determinations, with respect to the BOOST Program, for those schools identified in Defendants' Answers to Plaintiff's Interrogatory No. 7.

10. Any communications between MSDE and those schools identified in Defendants' Answers to Plaintiff's Interrogatory No. 7 related to the school's compliance with the BOOST Program's nondiscrimination provisions.

11. Any communications with the BOOST Advisory Board related to a school's compliance with the BOOST Program's nondiscrimination provisions, including but not limited to those schools identified in Defendants' Answers to Plaintiff's Interrogatory No. 7.

12. Any communications with third parties related to a school's compliance with the BOOST Program's nondiscrimination provisions, including but not limited to those schools identified in Defendants' Answers to Plaintiff's Interrogatory No. 7.

13. Any requests MSDE has received for an exemption from or waiver of any of the eligibility requirements for the BOOST Program, Textbooks and

Technology Program, and the Aging Schools Program, including any nondiscrimination requirement, and MSDE's response to each request.

14. Any requests for reconsideration by schools deemed ineligible to participate in the BOOST, Textbooks and Technology, and Aging Schools programs.

15. Any documents or communications related to Bethel Christian Academy's participation in the BOOST, Textbooks and Technology, and Aging Schools programs.

16. MSDE's policies, procedures, and practices in pursuing a claw back of funds from schools deemed in violation of BOOST non-discrimination requirements.

**CERTIFICATE OF SERVICE**

I hereby certify that on April 14, 2021, the foregoing was served in compliance with the Federal Rules of Civil Procedure to the following:

Robert A. Scott  
Ann Sheridan  
Justin E. Fine  
Assistant Attorneys General  
200 Saint Paul Place, 20th Floor  
Baltimore, MD 21202  
rscott@oag.state.md.us  
asheridan@oag.state.md.us  
jfine@oag.state.md.us

*/s/ Paul Schmitt*  
\_\_\_\_\_  
Paul Daniel Schmitt  
*Attorney for Plaintiff*

# **EXHIBIT 52**

**From:** Valerie Carpenter -MSDE- <valeriej.carpenter@maryland.gov>  
**To:** Donna Gunning -MSDE- <donna.gunning@maryland.gov>  
**Subject:** Forward: Draft Email Re: Amended Assurances  
**Date:** Fri, 31 May 2019 08:36:40 -0400

---

Good morning Donna, the following is the text and below is the forwarded email message. Valerie

The BOOST Advisory Board has recognized the non-discrimination provision that the Maryland General Assembly added to the BOOST law was to assure that public funds would not be available to schools that were discriminatory. The Report on the Fiscal 2020 State Operating Budget (HB 100) and the State Capital Budget (HB 101) and Related Recommendations included the following Committee Narrative:

"Aid to Non-Public Schools Assurance: It is the intent of the committees that non-public schools participating in the Aid to Non-Public Schools Program that do not have a school or student policy addressing gender identify and expression should develop such a policy. For those schools, the signature on the assurance form, in order to participate in the program in fiscal 2020, indicates the intent to develop a policy that does not discriminate against student or employees regardless of a person's assigned sex at birth. However, any school that discriminates on the basis of gender identify or expression shall be subject to the penalties and consequences contained in the fiscal 2020 Budget Bill to return the Maryland State Department of Education all textbooks or computer hardware and software and other electronically delivered learning material loaned to students under the program acquired through the fiscal 2020 allocation and will be ineligible to participate in the program."

The report also provides further explanation in regard to the BOOST Program:

""the language specifies that if a school is found to be in violation of BOOST Program nondiscrimination requirements, it must return the scholarship funds it received for the 2019-2020 school year to Maryland State Department of Education."

The BOOST Program hopes this information provides clarification.

----- Forwarded message -----

From: **Donna Gunning** <[donna.gunning@maryland.gov](mailto:donna.gunning@maryland.gov)>  
Date: Wed, May 29, 2019 at 4:17 PM  
Subject: Re: BOOST School Amended Assurances Form – REQUIRED for participation in 2019-2020; due June 3  
To: Boost MSDE -MSDE- <[boost.msde@maryland.gov](mailto:boost.msde@maryland.gov)>, James Clark -MSDE- <[james.clark1@maryland.gov](mailto:james.clark1@maryland.gov)>, Valerie Carpenter -MSDE- <[valeriej.carpenter@maryland.gov](mailto:valeriej.carpenter@maryland.gov)>

Valerie -

We don't respond to requests like this. I will send the question to Liz Kameen.

On Wed, May 29, 2019 at 2:18 PM Boost MSDE -MSDE- <[boost.msde@maryland.gov](mailto:boost.msde@maryland.gov)> wrote:

Hello Donna,

This is the second email from Dallas Bumgrner, Admin, Elvaton Christian Academy, the first was a request for direction to the HB 100.

He is requesting a response from BOOST:

"Before I sign the 'amended assurance form' would someone please further elucidate the intended meaning and implications of 'gender identity or expression' in House Bill 100 and the assurance form."

**Exhibit**  
51

Please let me know how you would like to proceed, the following is my draft response:

Pastor Bumgrner,

The BOOST Advisory Board has recognized the non-discrimination provision that the Maryland General Assembly added to the BOOST law was to assure that public funds would not be available to schools that were discriminatory. The Report on the Fiscal 2020 State Operating Budget (HB 100) and the State Capital Budget (HB 101) and Related Recommendations included the following Committee Narrative:

"Aid to Non-Public Schools Assurance: It is the intent of the committees that non-public schools participating in the Aid to Non-Public Schools Program that do not have a school or student policy addressing gender identify and expression should develop such a policy. For those schools, the signature on the assurance form, in order to participate in the program in fiscal 2020, indicates the intent to develop a policy that does not discriminate against student or employees regardless of a person's assigned sex at birth. However, any school that discriminates on the basis of gender identify or expression shall be subject to the penalties and consequences contained in the fiscal 2020 Budget Bill to return the Maryland State Department of Education all textbooks or computer hardware and software and other electronically delivered learning material loaned to students under the program acquired through the fiscal 2020 allocation and will be ineligible to participate in the program."

The report also provides further explanation in regard to the BOOST Program:

"the language specifies that if a school is found to be in violation of BOOST Program nondiscrimination requirements, it must return the scholarship funds it received for the 2019-2020 school year to Maryland State Department of Education."

The BOOST Program hopes this information provides clarification.

----- Forwarded message -----

From: **Pastorbun** <[pastorbun@aol.com](mailto:pastorbun@aol.com)>

Date: Wed, May 29, 2019 at 1:27 PM

Subject: Re: BOOST School Amended Assurances Form – REQUIRED for participation in 2019-2020; due June 3

To: <[boost.msde@maryland.gov](mailto:boost.msde@maryland.gov)>

Cc: <[academyprimary@academychild.com](mailto:academyprimary@academychild.com)>, <[snahidian@mymcs.org](mailto:snahidian@mymcs.org)>, <[islaah.abdalahim@alrahmah.org](mailto:islaah.abdalahim@alrahmah.org)>, <[principal@abbschool.com](mailto:principal@abbschool.com)>, <[bkohler@archbishopcurley.org](mailto:bkohler@archbishopcurley.org)>, <[principal@archbishopnealeschool.org](mailto:principal@archbishopnealeschool.org)>, <[cannona@spaldinghs.org](mailto:cannona@spaldinghs.org)>, <[sandrabolin@arundelchristianschool.org](mailto:sandrabolin@arundelchristianschool.org)>, <[kevindavern@avalonschools.org](mailto:kevindavern@avalonschools.org)>, <[ygrossman@bhmb.edu](mailto:ygrossman@bhmb.edu)>, <[ystein@baisyaakov.net](mailto:ystein@baisyaakov.net)>, <[wanderson@baltimoreactorstheatre.org](mailto:wanderson@baltimoreactorstheatre.org)>, <[dturner@bjacademy.org](mailto:dturner@bjacademy.org)>, <[brittany@baltimorehomeschool.org](mailto:brittany@baltimorehomeschool.org)>, <[cszendro@toraschaim.org](mailto:cszendro@toraschaim.org)>, <[jmott@bannerschool.org](mailto:jmott@bannerschool.org)>, <[Nigel.Traylor@bmhs.org](mailto:Nigel.Traylor@bmhs.org)>, <[rkiddy@bishopwalsh.org](mailto:rkiddy@bishopwalsh.org)>, <[aheyman@bnosyisroel.org](mailto:aheyman@bnosyisroel.org)>, <[pastor@broadfording.com](mailto:pastor@broadfording.com)>, <[rmcperhson@brookewood.org](mailto:rmcperhson@brookewood.org)>, <[iteachcca@calvaryeagles.net](mailto:iteachcca@calvaryeagles.net)>, <[stemblerc@calverthall.com](mailto:stemblerc@calverthall.com)>, <[jblumenstein@cambridgeschool.org](mailto:jblumenstein@cambridgeschool.org)>, <[principal@cardinalhickeyacademy.org](mailto:principal@cardinalhickeyacademy.org)>, <[fametta.jackson@archbalt.org](mailto:fametta.jackson@archbalt.org)>, <[mgilbart@clsedu.org](mailto:mgilbart@clsedu.org)>, <[ctenenbaum@mycheder.com](mailto:ctenenbaum@mycheder.com)>, <[principal@chesapeakechristian.org](mailto:principal@chesapeakechristian.org)>, <[tomculotta@tcshighschool.org](mailto:tomculotta@tcshighschool.org)>, <[blancoe@dbcr.org](mailto:blancoe@dbcr.org)>, <[smiller@elsbaltimore.org](mailto:smiller@elsbaltimore.org)>, <[mgall@fbslaurel.com](mailto:mgall@fbslaurel.com)>, <[kfilippelli@hacschool.org](mailto:kfilippelli@hacschool.org)>, <[l.kane@hcross.org](mailto:l.kane@hcross.org)>, <[mtaylor@holyfamilymd.org](mailto:mtaylor@holyfamilymd.org)>, <[maria.bovich@holy-redeemer.org](mailto:maria.bovich@holy-redeemer.org)>, <[c.ryan@hrs-ken.org](mailto:c.ryan@hrs-ken.org)>, <[mmeaney@theimmaculate.org](mailto:mmeaney@theimmaculate.org)>, <[bschilling@icschoolweb.org](mailto:bschilling@icschoolweb.org)>, <[aalicea@jhmschoolmd.org](mailto:aalicea@jhmschoolmd.org)>, <[lwetzel@indofmd.org](mailto:lwetzel@indofmd.org)>, <[ahauptman@nirc.edu](mailto:ahauptman@nirc.edu)>, <[sbamberger@jewelsschool.org](mailto:sbamberger@jewelsschool.org)>, <[tdurkin@johncarroll.org](mailto:tdurkin@johncarroll.org)>, <[mschwartz@ksds.edu](mailto:mschwartz@ksds.edu)>, <[suzanne.wisnieski@lhjna.com](mailto:suzanne.wisnieski@lhjna.com)>, <[leasuns2020@gmail.com](mailto:leasuns2020@gmail.com)>, <[lfsprincipal@littleflowercatholic.org](mailto:lfsprincipal@littleflowercatholic.org)>, <[MMLEARNINGCENTERMD@gmail.com](mailto:MMLEARNINGCENTERMD@gmail.com)>, <[mfriel@maryofnazareth.org](mailto:mfriel@maryofnazareth.org)>, <[jblakeslee@mercyhighschool.com](mailto:jblakeslee@mercyhighschool.com)>, <[Afeldheim@ktbaltimore.org](mailto:Afeldheim@ktbaltimore.org)>, <[eh@neimushatorah.org](mailto:eh@neimushatorah.org)>, <[a.cox@mmladeschool.com](mailto:a.cox@mmladeschool.com)>, <[mrecord@mbscs.org](mailto:mrecord@mbscs.org)>, <[president@mogschool.com](mailto:president@mogschool.com)>, <[principal@mothersetonschool.org](mailto:principal@mothersetonschool.org)>, <[principal@mountaviat.org](mailto:principal@mountaviat.org)>, <[dave@msjnet.edu](mailto:dave@msjnet.edu)>, <[bph@mountpleasant.org](mailto:bph@mountpleasant.org)>, <[astewart@nationalministries.com](mailto:astewart@nationalministries.com)>, <[jmorrow@newhopeacademy.org](mailto:jmorrow@newhopeacademy.org)>,

<[Kanek@notredameprep.com](mailto:Kanek@notredameprep.com)>, <[elizabethv@pcda.org](mailto:elizabethv@pcda.org)>, <[tcampbell@olgchs.org](mailto:tcampbell@olgchs.org)>, <[ipryle@olhsl.com](mailto:ipryle@olhsl.com)>, <[amoore@bethesda-lourdes.org](mailto:amoore@bethesda-lourdes.org)>, <[dthomas@olom.org](mailto:dthomas@olom.org)>, <[cashby@olmcmd.org](mailto:cashby@olmcmd.org)>, <[ypellechia@olphschool.org](mailto:ypellechia@olphschool.org)>, <[lgorman@olvmd.org](mailto:lgorman@olvmd.org)>, <[principalmb@olsss.org](mailto:principalmb@olsss.org)>, <[pcds001@gmail.com](mailto:pcds001@gmail.com)>, <[ddais@reidtempleacademy.com](mailto:ddais@reidtempleacademy.com)>, <[kmurphy@resstpaul.org](mailto:kmurphy@resstpaul.org)>, <[jcossentino@shgschool.org](mailto:jcossentino@shgschool.org)>, <[nheffner@stcasimirschool.us](mailto:nheffner@stcasimirschool.us)>, <[jnemeth@sspeaston.org](mailto:jnemeth@sspeaston.org)>, <[mwright@cmoq.org](mailto:mwright@cmoq.org)>, <[nbaker@schooloftheincarnation.org](mailto:nbaker@schooloftheincarnation.org)>, <[LMinakowski@sistersacademy.org](mailto:LMinakowski@sistersacademy.org)>, <[fschilling@sspeaston.org](mailto:fschilling@sspeaston.org)>, <[rcostante@stagnesschool.net](mailto:rcostante@stagnesschool.net)>, <[mrabreusas@gmail.com](mailto:mrabreusas@gmail.com)>, <[ssheehan@standrewapostle.org](mailto:ssheehan@standrewapostle.org)>, <[dball@staug-md.org](mailto:dball@staug-md.org)>, <[tewanciw@saintbernadetteschool.org](mailto:tewanciw@saintbernadetteschool.org)>, <[fernandezk@stcatholic.org](mailto:fernandezk@stcatholic.org)>, <[dtraum@sfdscs.org](mailto:dtraum@sfdscs.org)>, <[tharkleroad@sfismd.org](mailto:tharkleroad@sfismd.org)>, <[dadamoj@sfa-school.org](mailto:dadamoj@sfa-school.org)>, <[kcollins@ssjjschool.org](mailto:kcollins@ssjjschool.org)>, <[ESimmons@stjaneschool.org](mailto:ESimmons@stjaneschool.org)>, <[dflynn@stjeromes.org](mailto:dflynn@stjeromes.org)>

BOOST Program Staff,

Before I sign the 'amended assurance form' would someone please further elucidate the intended meaning and implications of 'gender identity or expression' in House Bill 100 and the assurance form.

Merriam-Webster gives two definitions of gender identity and one for gender expression.

"Medical Definition of gender identity. 1 : the totality of physical and behavioral traits that are designated by a culture as masculine or feminine. 2 : a person's internal sense of being male, female, some combination of male and female, or neither male or female.

Gender expression refers to the way people convey their gender through mannerisms, behaviors, or expressions."

Which definition of gender identity does the HB-100 refer and how much deviation from the biological norm of masculine and feminine expression does the assurance form cover? (examples?)

We do not discriminate on the basis of race, color, national or ethnic origin, age, religion, disability, sex, or sex preference. but we do have requirements and rules that coincide with our statement of faith, including actions and dress.

I could be wrong but the change in wording of HB-100 seems to me to be an attempt to keep most religious based private schools from receiving BOOST monies. If so, this only hurts students in need from acquiring the education they or their parents choose.

Dallas Bumgrner, Admin  
Elvaton Christian Academy

In a message dated 5/24/2019 5:47:20 PM Eastern Standard Time, [boost.msde@maryland.gov](mailto:boost.msde@maryland.gov) writes:

Dear Potential Participating BOOST School,

The BOOST Program 2019-2020 school year is governed by new Fiscal 2020 Budget language that requires participating BOOST schools to agree to amended assurances. For schools to become fully eligible for the BOOST 2019-2020 program, the Principal or Head of School must **read and sign the attached amended assurance form**. The new 2020 Budget language expands the nondiscrimination language requirement to include retention, expulsion or any other type of discrimination against students and prohibits participating schools from discriminating against students based on gender identity or expression.

**COMPLETED FORMS ARE DUE TO MSDE BY JUNE 3, 2019.** Signed forms may be emailed to [boost.msde@msde.gov](mailto:boost.msde@msde.gov).

We appreciate your cooperation with this request, if you have questions about the amended assurances, please send them to [boost.msde@msde.gov](mailto:boost.msde@msde.gov).

Thank you,

BOOST Program Staff  
Maryland State Department of Education

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Sent from Gmail Mobile