

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

BETHEL MINISTRIES, INC., \*  
*Plaintiffs,* \*  
v. \* No. 1:19-cv-01853-SAG  
MOHAMMED CHOUDHURY,<sup>1</sup> \*  
*et al.,* \*  
*Defendants.* \*

\* \* \* \* \*

**DEFENDANTS' OPPOSITION  
TO PLAINTIFF'S CROSS-MOTION FOR SUMMARY JUDGMENT AND  
REPLY MEMORANDUM IN FURTHER SUPPORT OF DEFENDANTS'  
MOTION FOR SUMMARY JUDGMENT**

BRIAN E. FROSH  
Attorney General of Maryland

/s/ Robert A. Scott

---

ROBERT A. SCOTT (No. 24613)  
ANN M. SHERIDAN (No. 11137)  
JUSTIN E. FINE (No. 18731)  
Assistant Attorneys General  
Office of the Attorney General  
200 Saint Paul Place, 20th Floor  
Baltimore, Maryland 21202  
rscott@oag.state.md.us  
(410) 576-7055  
(410) 576-6955 (facsimile)

July 23, 2021

Attorneys for Defendants

---

<sup>1</sup> Effective July 1, 2021, Mr. Mohammed Choudhury succeeded Dr. Karen Salmon as the Maryland State Superintendent of Schools. Under Federal Rule of Civil Procedure 25(d), a public officer's successor is automatically substituted as a party.

**TABLE OF CONTENTS**

|  | Page |
|--|------|
| ARGUMENT.....  | 2    |
| I. THE UNDISPUTED FACTS DEMONSTRATE THAT THE DEFENDANTS’ ENFORCEMENT OF THE BOOST NONDISCRIMINATION REQUIREMENT DID NOT VIOLATE ANY RIGHTS ARISING UNDER THE FIRST AMENDMENT RELIGION CLAUSES..... | 2    |
| A. There is No Evidence that the Defendants Targeted or Showed Hostility Towards Christian Schools and Their Beliefs or Excluded Bethel Because of Its Religious Status.....                       | 2    |
| B. The BOOST Nondiscrimination Provision Is Generally Applicable.....  | 8    |
| C. The Defendants Never Interfered With Bethel’s Internal Affairs and Religious Autonomy.....  | 11   |
| II. THE UNDISPUTED FACTS DEMONSTRATE THAT THE DEFENDANTS’ ENFORCEMENT OF THE BOOST NONDISCRIMINATION REQUIREMENT DID NOT VIOLATE BETHEL’S FREE SPEECH RIGHTS. ....                                 | 13   |
| A. There is No Evidence that the Defendants Engaged in Content-Based or Viewpoint-Based Discrimination.....  | 13   |
| B. There is No Evidence that the Defendants Imposed an Unconstitutional Condition on Bethel’s Receipt of BOOST Funds. ....   | 14   |
| III. NEITHER THE TEXT OF THE BOOST NONDISCRIMINATION REQUIREMENT NOR THE DEFENDANTS’ ENFORCEMENT OF THE REQUIREMENT VIOLATED ANY RIGHTS ARISING UNDER THE FOURTEENTH AMENDMENT.....                | 15   |
| A. The Void-for-Vagueness Doctrine Does Not Provide a Basis for Bethel to Prevail in This Case .....   | 15   |
| B. Defendants’ Enforcement of the Nondiscrimination Requirement Did Not Violate Parents’ Fourteenth Amendment Due Process Rights. ....   | 18   |
| C. Defendants’ Enforcement of the Nondiscrimination Requirement Did Not Violate Bethel’s Right to Equal Protection of Laws.....  | 19   |

IV. STRICT SCRUTINY DOES NOT APPLY IN THIS CASE, BUT IF IT DID,  
DEFENDANTS’ ENFORCEMENT OF THE BOOST NONDISCRIMINATION  
REQUIREMENT SATISFIES STRICT SCRUTINY..... 23

CONCLUSION ..... 24

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

BETHEL MINISTRIES, INC.,

\*

*Plaintiffs,*

\*

v.

\*

No. 1:19-cv-01853-SAG

MOHAMMED CHOUDHURY,

\*

*et al.,*

*Defendants.*

\*

\* \* \* \* \*

**DEFENDANTS’ OPPOSITION  
TO PLAINTIFF’S CROSS-MOTION FOR SUMMARY JUDGMENT AND  
REPLY MEMORANDUM IN FURTHER SUPPORT OF DEFENDANTS’  
MOTION FOR SUMMARY JUDGMENT**

Upon first blush, the conflicting narratives set forth in the parties’ cross-motions for summary judgment might lead one to believe genuine disputes of material fact preclude granting summary judgment to either party. But a close examination of Bethel’s exhibits reveals that they do not support Bethel’s narrative, and that Bethel is urging the Court to draw inferences that are not reasonable. Bethel’s factual contortions are an acknowledgement that *Masterpiece Cakeshop*<sup>2</sup> provides the proper framework for analyzing this case. Therefore, Bethel cannot prevail unless it can show religious targeting and hostility. Because there is no evidence of such, defendants are entitled to judgment as a matter of law.

---

<sup>2</sup> *Masterpiece Cakeshop, Ltd. v. Colorado Civil Rights Comm’n*, 138 S. Ct. 1719 (2018).

## ARGUMENT

### **I. THE UNDISPUTED FACTS DEMONSTRATE THAT THE DEFENDANTS' ENFORCEMENT OF THE BOOST NONDISCRIMINATION REQUIREMENT DID NOT VIOLATE ANY RIGHTS ARISING UNDER THE FIRST AMENDMENT RELIGION CLAUSES.**

#### **A. There is No Evidence that the Defendants Targeted or Showed Hostility Towards Christian Schools and Their Beliefs or Excluded Bethel Because of Its Religious Status.**

Bethel's claim that the defendants targeted Christian schools is belied by Exhibit 58 to its memorandum. ECF 80-61. That document is a scholarship award summary for the 2017-2018 school year that includes an appendix of 138 BOOST-participating schools.<sup>3</sup> *Id.* at 7, 14-17. An examination of that list reveals that no non-religious schools, two Muslim schools, nine Jewish schools, and 127 Christian schools participated in BOOST during that time period.<sup>4</sup> *Id.* at 14-17. Given that the vast majority of schools that participated in BOOST were Christian schools, Bethel's contention that Bethel was excluded because of its religious views, ECF 80-1 at 25, simply is not tenable.

Similarly groundless is the contention that the BOOST program administrators were hostile towards Christian beliefs and targeted Christian schools for discrimination. That

---

<sup>3</sup> The report indicates that MSDE requested data from 158 BOOST schools and received responses from 138. ECF 80-61 at 7.

<sup>4</sup> The Court can take judicial notice of this fact. *See* Fed. R. Evid. 201(b) (permitting court to "judicially notice a fact that is not subject to reasonable dispute" because it is "generally known within the trial court's territorial jurisdiction" or "can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned"). With few exceptions, the religious affiliation of the schools is evident from their names. The affiliation of the handful of schools with names that do not indicate religious affiliation is easily ascertainable. *See* <https://www.privateschoolreview.com/center-for-creative-learning-profile>; <https://hva-edu.com/>; <https://www.littleflowerschool.org/>.

assertion defies logic and common sense in light of the fact that more than 90 percent of the schools that benefitted from the program were Christian schools like Bethel.

Given that the vast majority of BOOST-participating schools were Christian, no nefarious inferences can be drawn from the fact that the handbooks MSDE staff flagged for further review were from Christian schools. Of 176 schools participating in the 2016-2017 school year, handbooks for 22 schools were found to have questionable language. ECF 75-23 at 2. Of the 22 schools selected for further review, three opted out of the program, nine were found to be eligible after further review, and ten were found to be ineligible. *Id.* Of the ten ineligible schools, six were re-admitted to the program after revising their handbook language, and four, including Bethel, remained ineligible. *Id.* These numbers do not support a claim of targeting, hostility, or disparate treatment.

Similarly, the method MSDE used to conduct the handbook review does not support a claim of targeting, hostility, or disparate treatment. First of all, the MSDE staff reviewed handbooks of *all* BOOST schools, not just Christian schools. ECF 80-8 at 41-42. And what they found were schools that expressed their discriminatory policies in religious terms. The very first discrimination example brought to the State's attention, the Trinity Lutheran handbook, illustrates this point. ECF 80-19 at 2. In its handbook, Trinity "reserve[d] the right . . . to refuse admission of an applicant" whose conduct, inside or outside school, "is counter to or in opposition to the Biblical lifestyle the school teaches." *Id.* The handbook explained that such conduct "includes . . . living in, condoning, or practicing homosexual lifestyle or alternative gender identity," and cited biblical verses in support of its policy. *Id.*

Monica Kearns explained that she and her team noticed a pattern after they had reviewed many handbooks:

[I]f you look at enough of them, what you'll notice is things where in — perhaps in the admissions section or another one section of the handbook it will just say biblical values, or something like that. . . . [I]n one part of the handbook it may just say biblical values and another part of the handbook it will say biblical values and then it will list out what those biblical values are. And those biblical values often would say explicitly, you know, something about, you know, sexual orientation, no homosexual behavior, or something like that.

ECF 80-8 at 69-70. Ms. Kearns explained that she and her team were “cast[ing] a very broad net” and “would include examples like that” and confer with counsel. *Id.* at 70-71. Given this context, then, it is no wonder that MSDE had questions about the meaning of a handbook provision denying admission to students who engage “in sexual activity inconsistent with Scriptural teaching.” ECF 80-26 at 2. Kearns sent an inquiry to the school in question, Arundel Christian School, *id.*, and ultimately, the school was found to be in compliance with the nondiscrimination requirement and was permitted to participate. ECF 75-23 at 2. Contrary to Bethel’s assertion, ECF 80-1 at 26, the undisputed facts demonstrate that MSDE’s methods were reasonable in light of the presenting problem—discriminatory policies expressed in religious terms—not “stem[ming] from animosity to religion or distrust of [religious] practices.” *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 547 (1993).

Bethel also cannot demonstrate that MSDE treated non-Christian schools more favorably than the Christian schools. The examples Bethel cites do not support its assertion of disparate treatment. Bethel complains that the handbook for Krieger Schecter Day

School includes “similar policies prohibiting public displays of affection and sexual contact” to Bethel’s, but that Krieger Schechter was not flagged for further review. ECF 80-1 at 28. It asserts that the only difference is that Bethel’s policy was inspired by its religious belief that all sexual intimacy should occur in marriage between a man and woman. *Id.* Not true. Bethel was not excluded from the BOOST program because of a policy prohibiting public displays of affection and sexual contact. It was excluded due to a discriminatory admissions policy. No such policy is included in the Krieger Schechter handbook. Indeed, the Krieger Schechter handbook upon which Bethel relies does not include an admissions policy at all and is from 2018-2019. ECF 80-68. Thus, it was not even part of 2017-2018 admissions policy review.<sup>5</sup> Moreover, Krieger Schechter’s conduct policy unambiguously applies to both heterosexual and homosexual conduct and makes no distinction between the two. ECF 80-68 at 9; *see Bob Jones Univ. v. United States*, 461 U.S. 574, 604 n. 30 (1983) (observing that a regulation does not violate First Amendment “merely because it happens to coincide or harmonize with the tenets of some or all religions”) internal citation and quotation marks omitted)). It is not an example of overlooked discrimination.

Similarly, contrary to Bethel’s assertions, the policy of Talmudical Academy (ECF 80-60) is not an example of overlooked discrimination. It is a conduct policy, dated December 12, 2019, ECF 80-60 at 2, not an admissions policy that would have been part

---

<sup>5</sup> Furthermore, it appears that Krieger Schechter may not even be a BOOST-participating school. *See* 80-61 at 14-17; 80-62 at 14-19.

of the 2018 review that resulted in Bethel's exclusion from the program. And the reference to "sodomy, unnatural or perverted sexual practices" is included in a list of examples of behavior that constitute sexual abuse. *Id.* at 3. The actual policy prohibits "any act that involves sexual molestation or exploitation" of a minor student. *Id.*

Although Bethel complains that Yeshiva of Greater Washington's handbook does not include a nondiscrimination statement at all and mentions "Torah values" in its discipline section, ECF 80-1 at 26-27, that handbook is again from the 2019-2020 school year and was not a part of the admissions policy review that excluded Bethel. ECF 80-64 at 2. Bethel notes that Yeshiva's nondiscrimination statement is included on its web page and, like Bethel's statement, includes only the Title VI nondiscrimination categories, not sexual orientation. ECF 80-1 at 42. But Bethel identifies no discriminatory language in Yeshiva's handbook or web page. In any event, it was not Bethel's omission of sexual orientation from its nondiscrimination statement that resulted in its exclusion from the BOOST program. It was Bethel's admissions policy that required student conduct to align with the "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 and female to reflect His image." ECF 75-22 at 2. That policy, on its face, singles out students based on sexual orientation and, therefore, is discriminatory.<sup>6</sup> Consequently, Matthew Gallagher's

---

<sup>6</sup> As Bethel notes, it is "an elementary school where marriage is not applicable to underage children." ECF 80-1 at 30. So including in the admissions policy an admonition that student conduct is expected to align with Bethel's view on marriage only makes sense as a signal that homosexuality will not be tolerated.

comments that the handbook language was problematic and that Bethel signed a nondiscrimination assurance illegally are nothing more than his assessment that Bethel was not in compliance with the BOOST requirements, not evidence of hostility.<sup>7</sup>

Faced with a dearth of evidence of hostility, Bethel contends that the Board went into closed session to “decide Bethel’s fate” because the *Masterpiece Cakeshop* decision had just been issued by the Supreme Court. ECF 80-1 at 31. The implication seems to be that the Board expressed its hostility privately because Board members knew they could not express it publicly. But this is pure speculation and not supported by the evidence. In fact, the record shows that the Board had already extensively discussed Bethel’s situation at the previous Board meeting on May 3, 2018, ECF 80-41 at 35-64, and three Board members were ready to vote to exclude Bethel at that time, but the Board agreed to table the vote because there were other Board members who wanted additional information, *id.* at 61-64. At the next meeting, in June, the Board went into closed session to receive legal advice, and then voted in open session with little additional discussion. *See* ECF 75-1 at 14 for full video citation. These facts do not support an inference of hostility. Consequently, the undisputed facts demonstrate that the defendants applied the nondiscrimination requirement in a neutral fashion.

---

<sup>7</sup> Bethel’s claim that Mr. Gallagher was “sneering”, ECF 80-1 at 30, is not supported by the cited video recording.

**B. The BOOST Nondiscrimination Provision Is Generally Applicable.**

Contrary to Bethel’s assertions, the BOOST nondiscrimination requirement does not allow for individualized exemptions and, therefore, is generally applicable. To determine whether there is “a mechanism for individualized exemptions,” courts look to whether the law “invite[s] the government to consider the particular reasons for a person’s conduct.” *Fulton v. City of Philadelphia*, 141 S. Ct. 1868, 1877 (2021) (internal quotation marks omitted) (quoting *Employment Div., Dep’t of Hum. Res. of Or. v. Smith*, 494 U.S. 872, 884 (1990)). For example, in *Fulton*, the Supreme Court found that there was a system of individualized exemptions when the city’s nondiscrimination provision expressly allowed for exceptions if granted at the Commissioner’s discretion. *Fulton*, 141 S. Ct. 1878. In another example, *Sherbert v. Verner*, 374 U.S. 398, 401 (1963), the law provided that the State could deny unemployment benefits to applicants who “failed, without good cause . . . to accept available suitable work.” Since the discretionary “good cause” standard allowed the court to look at the reason underlying the applicant’s conduct, the law provided for individualized exemptions. *Fulton*, 141 S. Ct. at 1877 (describing *Sherbert* as an example of a law with individualized exemptions).

Here, defendants did not consider the reasons underlying schools’ admissions policies, and the law does not allow for such considerations. Unlike *Fulton* or *Sherbert*, the BOOST nondiscrimination requirement does not contain a discretionary standard or an exception to the policy. While the nondiscrimination requirement provides that “[n]othing herein shall require any school or institution to adopt any rule, regulation, or policy that

conflicts with its religious or moral teachings,” that language is immediately qualified by the confirmation that “*all* participating schools must agree that they will not discriminate in student admissions on the basis of . . . sexual orientation.” 2016 Md. Laws ch. 143 at 132 (emphasis added). This language indicates that there can be no departures from the rule—all participating schools must comply. The BOOST Board and MSDE must “administer the grant program in accordance with [these] guidelines.” *Id.* at 131. Therefore, despite Bethel’s contention otherwise, defendants do not have the capacity to make exceptions to the nondiscrimination requirement for any reason.

Bethel equates MSDE’s reasonable methods for reviewing handbooks with “‘ad hoc discretionary decisions’” that amount to a system of individualized exemptions. ECF 80-1 at 33 (quoting *Axson-Flynn v. Johnson*, 356 F.3d 1277, 1299 (10th Cir. 2004)). However, while it necessarily “takes some degree of individualized inquiry to determine whether a [school] is eligible,” defendants’ methods of enforcement do not amount to the “kind of case-by-case system envisioned by the [Supreme Court]” as a system of individualized exemptions. *Axson-Flynn*, 356 F.3d at 1298. The “distinctive feature” of a system of individualized exemptions, consideration of the underlying reason behind schools’ conduct, is not present here. *Smith*, 494 U.S. at 884. It is undisputed that MSDE and the Board reviewed schools’ handbooks on their face, without regard to the motivation behind schools’ policies, and applied the same principles to all schools in making their decisions. ECF 75-15 at ¶¶ 12-15; ECF 75-19 at ¶ 20; ECF 80-8 at 44-47. To hold there is “a mechanism of individualized exemptions” here—where the law does not provide for any exceptions, and no exceptions have been granted—would essentially be holding that there

is “a mechanism for individualized exemptions” whenever eligibility is determined by an administrative board. This would substantially expand the rule beyond the circumstances in *Fulton* and *Sherbert*.

Bethel’s claim that “many exemptions” have been granted is incorrect. ECF 80-1 at 32. To support its claim, Bethel notes that some schools retained in the BOOST program may share the same religious beliefs as Bethel, or may only include Title VI language in their nondiscrimination statements. *Id.* at 32-33. However, those facts do not demonstrate that the schools had discriminatory policies. Furthermore, Bethel was not excluded from BOOST based on its religious beliefs or because it included only Title VI language in its nondiscrimination statement. Rather, Bethel was excluded because it maintained a discriminatory policy that singled out students based on sexual orientation, one that “[a] non-heterosexual student may reasonably view . . . [as allowing] denial of admission or discipline or expulsion on the basis of his or her sexual orientation.” ECF 75-19 at 4; ECF 75-22 at 2. As explained above, Bethel has not identified *any* school that maintains a discriminatory admissions policy and has been retained in the BOOST program. Bethel could not do so, because no exceptions have been granted, and no exceptions can be granted to the nondiscrimination requirement. Moreover, a religious exemption here would render the nondiscrimination requirement meaningless since the vast majority of schools in the BOOST program are religious and would be entitled to such an exemption. *See* ECF 80-61 at 14-17. The BOOST nondiscrimination requirement therefore does not have “a mechanism for individualized exemptions” and is generally applicable.

**C. The Defendants Never Interfered With Bethel's Internal Affairs and Religious Autonomy.**

As a condition of receiving BOOST scholarship funds, Bethel signed an assurance that it would not discriminate in student admissions based on sexual orientation. ECF 75-6. Bethel does not claim an exemption from this requirement on the basis of its religious beliefs. Instead, it steadfastly claims it is complying with the requirement. Nevertheless, Bethel now argues that, even if the nondiscrimination requirement is a valid, neutral law of general applicability, Bethel still may escape enforcement of the provision because the defendants' enforcement constitutes unwarranted interference in Bethel's internal church affairs. ECF 80-1 at 34-35. Bethel is plainly wrong. Enforcement of the condition, to which Bethel agreed in order to participate in a scholarship program funded by taxpayer dollars, does not constitute unwarranted interference with internal church affairs.

Given that Bethel has not claimed a religious exemption, and has not argued entitlement to one, *Hosanna-Tabor* does not support its position. The Supreme Court, in *Hosanna-Tabor*, held that there is a ministerial exception to employment discrimination laws that is grounded in the Religion Clauses. *Hosanna-Tabor Evangelical Lutheran Church & Sch. v. E.E.O.C.*, 565 U.S. 171, 188 (2012). The Supreme Court outlined the history that made it clear that the Religion Clauses of the First Amendment prohibit the government from interfering with a religious entity's selection of ecclesiastical staff. *Id.* at 182-88. Consequently, the E.E.O.C. could not seek an order reinstating a ministerial employee who had been terminated from employment, even if the termination was based on alleged discrimination. *Id.* at 194. "By requiring the Church to accept a minister it did

not want, such an order would have plainly violated the Church's freedom under the Religion Clauses to select its own ministers." *Id.* The exception "ensures that the authority to select and control who will minister to the faithful — a matter strictly ecclesiastical — is the church's alone." *Id.* at 194-95 (internal citation and quotation marks omitted). "[G]overnmental non-interference with the ministerial employment decisions of churches," *E.E.O.C. v. Roman Cath. Diocese of Raleigh*, 213 F.3d 795, 800 (4th Cir. 2000), is not what is at stake in this case. What is at stake is the authority of states to avoid spending taxpayer dollars on schools that maintain admissions policies that discriminate against gay and transgender students.

There is nothing akin to a ministerial exception in this case. Supreme Court precedent is clear that the government need not subsidize private educational institutions that discriminate. *See Bob Jones Univ.*, 461 U.S. at 602-04 (holding that Religion Clauses do not prohibit Internal Revenue Service from denying charitable organization status to religious schools that discriminate on basis of race). *Bob Jones University*, similar to *Bethel* in this case, argued that it was not engaging in race discrimination because it admitted all students, regardless of race. *Id.* at 605. It asserted that its conduct restrictions banning interracial dating and marriage were not discriminatory because they applied to all races. *Id.* As the Supreme Court noted, however, prohibitions "of racial affiliation and association is a form of racial discrimination." *Id.* The government's refusal to subsidize such discrimination, even if based on a school's sincerely held religious beliefs, does not violate the Establishment Clause. *Id.* at 604 n. 30 (observing that "the uniform application of the rule to all religiously operated schools *avoids* the necessity for a potentially

entangling inquiry into whether a racially restrictive practice is the result of sincere religious belief” (emphasis in original) (quoting *United States v. Bob Jones Univ.*, 639 F.2d 147, 155 (4th Cir. 1980))). The undisputed facts do not demonstrate the defendants’ enforcement of the BOOST provisions violated the Religion Clauses.

**II. THE UNDISPUTED FACTS DEMONSTRATE THAT THE DEFENDANTS’ ENFORCEMENT OF THE BOOST NONDISCRIMINATION REQUIREMENT DID NOT VIOLATE BETHEL’S FREE SPEECH RIGHTS.**

**A. There is No Evidence that the Defendants Engaged in Content-Based or Viewpoint-Based Discrimination.**

Bethel does not contend that nondiscrimination requirements, generally, constitute content-based or viewpoint-based discrimination that is proscribed by the Free Speech Clause of the First Amendment. Instead, it attempts to recast the defendants’ enforcement of the BOOST nondiscrimination requirement as an effort to eliminate expressions of religious beliefs in school handbooks. ECF 80-1 at 36. The undisputed facts contradict this assertion. Bethel was not excluded from BOOST for including a Statement of Faith in its handbook or for expressing religious beliefs on marriage. It was excluded for a discriminatory admissions policy that referenced those beliefs. ECF 75-22 at 2-3. The reason for exclusion had nothing to do with the religious source of the policy and everything to do with the discriminatory effect of the policy. *See* ECF 75-22 at 2 (explaining that 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”). Bethel has not identified any school with a discriminatory policy grounded in secular views or non-Christian views that was permitted to participate in BOOST.

Because the defendants sought to eliminate discriminatory policies, without regard to the reasons motivating such policies, their enforcement did not constitute content or viewpoint-based discrimination. *See Christian Legal Soc’y Chapter of the Univ. of Cal., Hastings Coll. of L. v. Martinez*, 561 U.S. 661, 696 (2010) (holding that law school regulation of student organization’s exclusionary membership policies was content-neutral where the law school “aim[ed] at the *act* of rejecting would-be group members without reference to the reasons motivating that behavior” (emphasis in original)).

**B. There is No Evidence that the Defendants Imposed an Unconstitutional Condition on Bethel’s Receipt of BOOST Funds.**

Bethel signed an assurance that it would not discriminate in student admissions based on sexual orientation. ECF 75-6. Bethel did not claim an exemption from this requirement on the basis of its religious beliefs. Having agreed not to discriminate as a condition to receiving taxpayer funds, Bethel was not in a position to then issue a discriminatory admissions policy because, as noted at pages 12-13 above, the First Amendment does not require Maryland to subsidize discrimination.

Bethel claims that it does not discriminate because it has an “all-comers policy.” ECF 80-1 at 39. But Bethel does not explain why its written admissions policy does not say this. An unwritten “all-comers” policy is not consistent with Bethel’s written admissions policy which requires student conduct to “align with [the] view” that marriage is “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.” ECF 75-16 at 3. Such

a policy can only reasonably be read as one that allows denial of admission and/or continued enrollment on the basis of sexual orientation. *See* ECF 75-22 at 2.

Further, Bethel's claims that it does not discriminate against transgender students is simply not plausible given its that its 2019-2020 handbook explicitly requires students to *identify with* and dress in accordance with their biological gender, *even off-campus*, or risk expulsion. ECF 75-30 at 7-8. Indeed, when asked in deposition whether Bethel would admit a prospective male student who informed the school that he wanted to dress like a girl, Bethel's Rule 30(b)(6) designee refused to answer. Defs.' Ex. 34, Bethel Deposition at 62:3-64:14. Bethel's written policy expressly excludes transgender students, an exclusion not permitted by Maryland's current nondiscrimination requirements. Of course, Bethel is free to maintain such policies, but Maryland is not required to subsidize them. *See Bob Jones Univ.*, 461 U.S. at 602-04.

**III. NEITHER THE TEXT OF THE BOOST NONDISCRIMINATION REQUIREMENT NOR THE DEFENDANTS' ENFORCEMENT OF THE REQUIREMENT VIOLATED ANY RIGHTS ARISING UNDER THE FOURTEENTH AMENDMENT.**

**A. The Void-for-Vagueness Doctrine Does Not Provide a Basis for Bethel to Prevail in This Case.**

Bethel has not responded to defendants' argument that the void-for-vagueness doctrine does not apply because the challenged law does not render Bethel's speech or conduct unlawful. *See* 75-1 at 37. Indeed, the single case Bethel discusses in this regard, ECF No. 80-1 at 40 (discussing *Grayned v. City of Rockford*), is a criminal case challenging a conviction under an anti-noise ordinance. 408 U.S. 104 (1972). Bethel's failure to respond to this argument constitutes a waiver, *Annan v. Capital One Bank*, No. CV TDC-

19-1329, 2020 WL 5407901, at \*3 (D. Md. Sept. 9, 2020) (quoting *Satcher v. University of Ark. at Pine Bluff Bd. of Trs.*, 558 F.3d 731, 735 (8th Cir. 2009)), and a basis for granting summary judgment in favor of defendants on Bethel’s void-for-vagueness claim, *Mentch v. Eastern Sav. Bank, FSB*, 949 F. Supp. 1236, 1247 (D. Md. 1997) (granting summary judgment to defendant over one of plaintiff’s claims because plaintiff in her response brief “did not specifically address [defendant’s] argument”).<sup>8</sup>

In any event, *Grayned* illustrates that, contrary to Bethel’s assertion, ECF No. 80-1 at 40-41, the lack of internal definitions in the BOOST law does not mean that the law is unconstitutionally vague. Although the noise ordinance in *Grayned* did not define the terms “adjacent” or “tends to disturb,” the Court “extrapolate[d]” their meaning by looking at the “words of the ordinance itself,” “the interpretations the court below has given to analogous statutes,” and “perhaps to some degree, to the interpretation of the statute given by those charged with enforcing it.” *Id.* at 109-10 (internal quotation marks and citations omitted). Similarly, as fully discussed in defendants’ opening memorandum, the terms “sexual orientation” and “gender identity” can be extrapolated from other sources. ECF 75-1 at 37-38.

---

<sup>8</sup> Similarly, Bethel failed to respond to defendants’ arguments that the enforcement of the nondiscrimination requirement did not violate the Due Process Clause of the Fourteenth Amendment because (1) BOOST scholarships are not a “‘property’ interest protected by procedural due process,” *Board of Regents of State Colls. v. Roth*, 408 U.S. 564, 577 (1972), and (2) the specific rights asserted under the First Amendment are the appropriate constitutional framework to resolve Bethel’s claims. ECF No. 75-1 at 36.

Bethel's contention that the defendants arbitrarily enforced the nondiscrimination provision, ECF No. 80-1 at 41, also does not support its void for vagueness claim because the undisputed facts show that defendants did not engage in arbitrary enforcement. Bethel relies on the handbooks from several non-Christian schools participating in BOOST to show arbitrariness. *Compare* ECF 80-1 at 41 *with* 80-1 at 30, 34. For the same reasons these examples do not show religious targeting, *see supra* section I.A, they do not show arbitrary enforcement.

Finally, contrary to Bethel's assertion, ECF 80-1 at 41, the mere fact that some of these schools are single-sex schools does not demonstrate arbitrary enforcement of the new gender identity and gender expression provisions. As MSDE's designee explained in deposition testimony, there is language in the Maryland General Assembly's Joint Chairman's Report<sup>9</sup> that allowed such schools to develop a policy regarding gender identity and expression if they did not already have one and to note such fact in their written assurances. ECF 80-53 at 53. Regardless of the complexity of applying the gender identity and expression requirements to single-sex schools, Bethel's policy on gender identity was neither nuanced nor complex. Its policy provides for expulsion of students who do not identify and dress in accordance with their biological gender, even off campus. ECF 75-30 at 7-8. It thereby expressly discriminates against transgender students. Bethel has

---

<sup>9</sup> See Defs.' Ex. 35, Joint Chairmen's Report, *Report on the Fiscal 2020 State Operating Budget (HB 100) and the State Capital Budget (HB 101) and Related Recommendations* 172 (Mar. 25, 2019), <https://msa.maryland.gov/megafile/msa/speccol/sc5300/sc5339/000113/023900/023943/20190324e.pdf>.

identified no other BOOST school whose written policies discriminate against transgender students. For all of these reasons, Bethel's void-for-vagueness claim fails as a matter of law.

**B. Defendants' Enforcement of the Nondiscrimination Requirement Did Not Violate Parents' Fourteenth Amendment Due Process Rights.**

Like Bethel, the parents of its students do not have a protected interest in the BOOST scholarships. *See Roth*, 408 U.S. at 577. The scholarships are not a protected interest because the State is not required to provide scholarships for nonpublic school students (Bethel has not argued to the contrary), and the BOOST law must be renewed annually. And at least one member of the General Assembly has stated that the legislature may not renew the BOOST law if the State cannot enforce the nondiscrimination provision. ECF 22-2 at 7. Because the BOOST scholarships are not guaranteed, Bethel cannot assert a parental-rights claim.

Bethel's argument that defendants "deprived parents of a choice for a Christian education" by deeming Bethel ineligible for BOOST is without merit. ECF 80-1 at 43. The undisputed facts show that, in 2018, the BOOST program included more than 100 other Christian schools where Bethel students could use their scholarships instead. ECF No. 80-61 at 14-17; *see supra* section I.A. The availability of dozens of other BOOST-participating Christian schools refutes the argument that parents were somehow forced to send their children to public school, ECF No. 75-1 at 41-42, which is required to show a violation of the Fourteenth Amendment right to educate one's child. *St. Joan Antida High Sch. Inc. v. Milwaukee Pub. Sch. Dist.*, 919 F.3d 1003, 1008 (7th Cir. 2019) (quoting *Pierce*

*v. Society of the Sisters*, 268 U.S. 510 (1925)). The undisputed facts do not demonstrate any violation of parental rights.

Additionally, the case law that Bethel relies upon is inapposite. The *Espinoza v. Montana Department of Revenue* decision held that a state could not prohibit students from using private scholarships to attend religious non-public schools “solely because of [the school’s] religious character.” 140 S. Ct. 2246, 2255 (2020) (internal quotation marks and citations omitted). Here, dozens of religious schools benefit from the BOOST program, and Bethel was removed from BOOST because of its admissions policy, not its religious nature generally. And *Wisconsin v. Yoder* was not about school choice at all but whether parents could decide *not* to educate their children after age 15 because of the parents’ religious beliefs. 406 U.S. 205, 214-15 (1972). Bethel’s parental rights claim fails as a matter of law.

**C. Defendants’ Enforcement of the Nondiscrimination Requirement Did Not Violate Bethel’s Right to Equal Protection of Laws.**

Bethel’s contention, that the defendants violated the Equal Protection Clause of the Fourteenth Amendment by treating it “worse” than other religious schools, ECF No. 80-1 at 44, is contradicted by the undisputed facts.

First, the evidence shows that another school that included language in its admissions policy almost identical to the language in Bethel’s policy was also deemed ineligible for BOOST in 2018. Like Bethel, Celebration Christian Academy’s admissions policy stated that the school “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

or female to reflect His image. Therefore, faculty, staff, and student conduct is expected to align with this view.” Defs.’ Ex. 36, Letter from BOOST Chair to Celebration Christian Academy Letter 1 (Mar. 16, 2018). Like Bethel, Celebration was declared ineligible for BOOST. *Id.* The notion that Bethel was somehow singled out for disfavored treatment by MSDE and the Board is simply not true.

Similarly groundless is Bethel’s assertion that defendants shared with other BOOST schools a January 9, 2018 legal memorandum about how the Board was evaluating handbooks, but “never shared it with Bethel.” ECF 80-1 at 44; ECF 80-2 at ¶ 39. The record shows that James Klarman, the Nonpublic Schools Program Coordinator at MSDE, sent a copy of the memorandum to Bethel principal Claire Dant on February 21, 2018. Defs.’ Ex. 37, Second Declaration of James Klarman ¶¶ 4-5.<sup>10</sup>

Bethel also complains that the “State never explained to Bethel why they believed our handbook did not comply with the law or how it should be changed” until after Bethel was declared ineligible. ECF 80-2 at ¶ 40. This statement is disingenuous because it ignores the fact that MSDE sent Bethel letters dated March 5, 2018 and May 25, 2018, highlighting the language in Bethel’s admissions policy that the State believed was discriminatory and asking for an explanation. ECF 75-17; ECF 75-20. Bethel responded

---

<sup>10</sup> The incorrect date was used for the electronic file name of the January 9, 2018 legal memorandum and was saved as “Enforcing Nondiscrimination and Reimbursement Memo 01-04-18.” Other BOOST schools who received the memorandum received the same file. *See, e.g.*, Defs.’ Ex. 38, Email from Klarman to Principal of Frederick Adventist Academy (Feb. 20, 2018).

to these letters in writing. ECF 75-18; ECF 75-21. Contrary to Bethel's assertions, Bethel knew exactly why it was excluded from BOOST.

Bethel also contends that it was treated it unequally because enforcement of the BOOST program was "uneven." ECF No. 80-1 at 45. Bethel complains that MSDE staff who conducted the review of school handbooks acted "without training." ECF 80-1 at 45. But the deposition testimony of Mr. Klarman, who personally worked on the handbook review, shows that MSDE staff received written legal guidance from the Office of the Attorney General in January, 2018 regarding how to determine if a BOOST school's admissions policy was discriminatory. ECF 80-9 at 44-49; 89:21-90:6; *see also* ECF 80-53 at 37:5-12. That guidance was shared with Bethel on February 21, 2018. Defs.' Ex. 37 ¶¶ 4-5. Further, MSDE staff gave Bethel written notice of their concerns and an opportunity to explain apparent inconsistencies between its handbook and the BOOST nondiscrimination requirement. ECF 75-17, 75-18. The record shows that MSDE staff only identified for further review handbooks that were unclear or appeared to be inconsistent with the BOOST law; they did not decide a school's BOOST eligibility themselves. ECF 75-15 at ¶¶ 16-18. MSDE staff referred these cases to the Board for decision. *Id.* at ¶ 18.

The record shows that the Board's deliberations about Bethel's handbook were thorough. The Board first considered Bethel's handbook during a May 3, 2018 meeting, which Bethel was invited to attend (but did not). ECF 75-1 at 13. Rather than decide at that time, the Board requested additional information from Bethel, and the Board again considered Bethel's eligibility during its next meeting on June 21, 2018. *Id.* at 13-14. Even

after the Board found Bethel ineligible for BOOST, ECF 75-22, the Board extended the same opportunity to Bethel that it did to other ineligible schools to revise its handbook, comply with the nondiscrimination requirement, and receive again BOOST scholarships. ECF 75-25.

Bethel unsuccessfully attempts to characterize the handbook-review process as one where the defendants had “unbounded discretion” to remove Bethel from BOOST, ECF No. 80-1 at 44, and relies on the decision in *Child Evangelism Fellowship of Md., Inc. v. Montgomery County. Pub. Sch.*, 457 F.3d 376 (4th Cir. 2006). But *Child Evangelism* is inapposite. That case dealt with free speech, not free exercise, and whether a school district’s take-home flyer program “provide[d] safeguards sufficient to ensure viewpoint neutrality.” *Id.* at 386. That is not the issue in this case. In addition, the evidence in this case does not show that MSDE and the Board possessed “unbounded discretion,” which *Child Evangelism* described as the government’s ability to deny speech “for any reason at all” and to “hid[e] the suppression from public scrutiny.” *Id.* Here, the Board found Bethel ineligible for BOOST for not complying with the nondiscrimination requirement, not for any reason at all, and its decision was publicly available, including through the BOOST website. *See BOOST 2018 Meeting Dates and Materials*, Md. State Dept. of Educ., <http://marylandpublicschools.org/Pages/boost/meetings2018.aspx> (last visited July 20, 2021). The undisputed facts do not demonstrate any violation of the Equal Protection Clause.

**IV. STRICT SCRUTINY DOES NOT APPLY IN THIS CASE, BUT IF IT DID, DEFENDANTS’ ENFORCEMENT OF THE BOOST NONDISCRIMINATION REQUIREMENT SATISFIES STRICT SCRUTINY.**

Contrary to Bethel’s contention, strict scrutiny does not apply in this case simply because Bethel has outlined creative arguments about “hybrid rights of Free Exercise, Free Speech, and parental rights.” ECF 80-1 at 25 n. 7. Similar hybrid rights arguments were asserted and rejected in *Masterpiece Cakeshop*. 138 S. Ct. at 1723. Although the baker in that case had framed the Colorado Civil Rights Commission’s actions as having violated both his freedom of speech and free exercise of religion, the Supreme Court analyzed the case under the rubric set forth in *Smith*, 494 U.S. 872. That rubric—which upholds enforcement of a valid, neutral, and generally applicable law even if it burdens a claimant’s free exercise of religion—is also applicable here. Moreover, even if the Court were to find, for some reason, that *Smith* does not apply, it is not a given that strict scrutiny would apply. *See Fulton*, 141 S. Ct. at 1883 (2021) (Barrett, J., concurring) (expressing “skept[ic]ism” about swapping *Smith*’s categorical antidiscrimination approach for an equally categorical strict scrutiny regime, particularly when this Court’s resolution of conflicts between generally applicable laws and other First Amendment rights—like speech and assembly—has been much more nuanced”); *Yoder*, 406 U.S. at 221 (“By preserving doctrinal flexibility and recognizing the need for a sensible and realistic application of the Religion Clauses we have been able to chart a course that preserved the autonomy and freedom of religious bodies while avoiding any semblance of established religion. This is a tight rope and one we have successfully traversed.” (internal citations and quotation marks omitted)); *see also Smith*, 494 U.S. at 882-83 (referring to the test in *Sherbert*, 374 U.S. 398, as a

“balancing test”). A true balancing test would weigh the State’s admittedly weighty interest in not subsidizing discrimination against the extent to which enforcement has burdened Bethel and conclude in the defendants’ favor.

In any event, if applied, the defendants’ actions would withstand strict scrutiny because the interest in not subsidizing discrimination is a compelling one, and the State has sought to achieve its goals through the least restrictive means possible. As an initial matter, the State required all participating schools to sign written assurances that they would not discriminate. And when it was brought to the State’s attention that, despite those assurances, some of the schools maintained discriminatory written policies in conflict with those assurances, the State engaged in a comprehensive review of the written policies and excluded only those schools whose written policies were discriminatory on their face. Bethel has not identified less intrusive means available to the State that would have achieved its goals. Defendants’ actions withstand strict scrutiny.

### **CONCLUSION**

For all of the forgoing reasons, defendants’ motion for summary judgment should be granted and Plaintiff’s cross-motion for summary judgment should be denied.

Respectfully submitted,

BRIAN E. FROSH  
Attorney General of Maryland

/s/ Robert A. Scott

---

ROBERT A. SCOTT (No. 24613)  
ANN M. SHERIDAN (No. 11137)  
JUSTIN E. FINE (No. 18731)  
Assistant Attorneys General  
Office of the Attorney General  
200 Saint Paul Place, 20th Floor  
Baltimore, Maryland 21202  
rscott@oag.state.md.us  
(410) 576-7055  
(410) 576-6955 (facsimile)

July 23, 2021

Attorneys for Defendants

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

|                                  |   |                       |
|----------------------------------|---|-----------------------|
| BETHEL MINISTRIES, INC.,         | * |                       |
| <i>Plaintiffs,</i>               | * |                       |
| v.                               |   |                       |
|                                  | * | No. 1:19-cv-01853-SAG |
| MOHAMMED CHOUDHURY, <sup>1</sup> | * |                       |
| <i>et al.,</i>                   | * |                       |
| <i>Defendants.</i>               | * |                       |
| * * * * *                        |   |                       |

**EXHIBIT LIST**

|   | <b>EXHIBIT NO.</b> |
|---|--------------------|
| Deposition Testimony of Bethel Ministries, Inc. (Mar. 31, 2021).....  | 34                 |
| Report on the Fiscal 2020 State Operating Budget (HB 100) and the State<br>Capital Budget (HB 101) and Related Recommendations, Joint Chairmen’s Report 2019<br>Session (Mar. 25, 2019) ..... | 35                 |
| Letter to Celebration Christian Academy from BOOST Board Chairman Matthew<br>Gallagher (Mar. 16, 2018).....   | 36                 |
| Second Declaration of James Klarman with Exhibit A (July 15, 2021) .....  | 37                 |
| E-mail to Frederick Adventist Academy from James Klarman (Feb. 20, 2018) .....  | 38                 |

---

<sup>1</sup> Effective July 1, 2021, Mr. Mohammed Choudhury succeeded Dr. Karen Salmon as the Maryland State Superintendent of Schools. Under Federal Rule of Civil Procedure 25(d), a public officer’s successor is automatically substituted as a party.

# Exhibit 34

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22

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

BETHEL MINISTRIES, INC.,  
Plaintiff

V.

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

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

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22

APPEARANCES

ON BEHALF OF THE PLAINTIFF, BETHEL MINISTRIES, INC.:

Paul D. Schmitt

Alliance Defending Freedom

440 First Street Northwest

Suite 600

Washington, D.C. 20001

Telephone No.: (202) 347-0406

E-mail: pschmitt@adflegal.org

(Appeared via Videoconference)

And

Ryan J. Tucker

Alliance Defending Freedom

15100 North 90th Street

Scottsdale, Arizona 85260

Telephone No.: (480) 444-0020

Facsimile No.: (480) 444-0025

E-mail: rtucker@adflegal.org

1 APPEARANCES (CONTINUED)

2

3 ON BEHALF OF THE DEFENDANTS, DR. KAREN B. SALMON, IN HER  
4 OFFICIAL CAPACITY AS STATE SUPERINTENDENT, MATTHEW  
5 GALLAGHER, IN HIS OFFICIAL CAPACITY AS CHAIR OF THE  
6 BOOST ADVISORY BOARD, MARVA JO CAMP, LINDA EBERHART,  
7 NANCY GRASMICH, ELIZABETH GREEN, BETH HARBINSON, A.  
8 SKIPP SANDERS, ALL IN THEIR OFFICIAL CAPACITITES AS  
9 MEMBERS OF THE BOOST ADVISORY BOARD:

10 Robert A. Scott

11 Justin E. Fine

12 Assistant Attorneys General

13 200 Saint Paul Place

14 20th Floor

15 Baltimore, Maryland 21202

16 Telephone No.: (410) 576-7055

17 E-mail: rscott@oag.state.md.us

18 jfine@oag.state.md.us

19 (Appeared via Videoconference)

20

21 Also Present: Adam Schuman, Planet Depos Remote

22 Technician

|    |   |      |
|----|---|------|
| 1  | INDEX   |      |
| 2  |   | Page |
| 3  | PROCEEDINGS                                   | 8    |
| 4  | DIRECT EXAMINATION BY MR. SCOTT               | 10   |
| 5  | CROSS EXAMINATION BY MR. TUCKER               | 144  |
| 6  |   |      |
| 7  | EXHIBITS                                      |      |
| 8  | Exhibit                                       | Page |
| 9  | 1 - Notice of Deposition                      | 13   |
| 10 | 2 - Bethel Christian Academy Handbook         | 24   |
| 11 | 3 - Bethel Christian Academy Brochure         | 37   |
| 12 | 4 - Bethel Christian Academy Pre-Enrollment   | 41   |
| 13 | Parent Interview                              |      |
| 14 | 5 - Bethel Christian Academy Admissions       | 46   |
| 15 | Records                                       |      |
| 16 | 6 - Bethel Christian Academy Student          | 99   |
| 17 | Disciplinary Records - January 2015 -         |      |
| 18 | April 2018                                    |      |
| 19 | 6a - Bethel Christian Academy Behavior Report | 102  |
| 20 | - April 13, 2018                              |      |
| 21 | 7 - Complaint                                 | 123  |
| 22 | 8 - May 11, 2017 Email                        | 82   |

|    | EXHIBITS (CONTINUED)                         |      |
|----|--|------|
| 1  |  |      |
| 2  | Exhibit                                      |      |
| 3  | 9 - October 13, 2017 Letter from Matthew     | 85   |
| 4  | Gallagher                                    |      |
| 5  |  | Page |
| 6  | 9a - Correspondence Re: Handbook Review      | 86   |
| 7  | 10 - March 5, 2018 Letter from Monica Kerns  | 88   |
| 8  | to Claire Dant                               |      |
| 9  | 11 - March 13, 2018 Email and Attachment     | 92   |
| 10 | from Claire Dant To Monica Kearns            |      |
| 11 | 12 - April 26, 2018 Email Thread Between     | 94   |
| 12 | Claire Dant And Monica Kearns                |      |
| 13 | 13 - May 2, 2018 Email from Claire Dant To   | 95   |
| 14 | Monica Kearns                                |      |
| 15 | 14 - Statement to The Boost Advisory Board   | 96   |
| 16 | by Claire M. Dant On Behalf of               |      |
| 17 | Bethel Christian Academy                     |      |
| 18 | 15 - May 25, 2018 Letter from Monica Kearns  | 96   |
| 19 | To Claire Dant                               |      |
| 20 | 16 - May 29, 2018 Letter from Claire Dant to | 96   |
| 21 | Monica Kearns and The Boost Board            |      |
| 21 | 17 - August 8, 2018 Letter from Matt         | 97   |
| 22 | Gallagher to Claire Dant                     |      |

|    |   |     |
|----|---|-----|
| 1  | EXHIBITS (CONTINUED)                        |     |
| 2  | Exhibit                                     |     |
| 3  | 19 - May 24, 2019 Email Thread Between      | 110 |
| 4  | Claire Dant And Donna Gunning               |     |
| 5  | 20a - February 28, 2019 Letter from Donna   | 106 |
| 6  | Gunning to Claire Dant                      |     |
| 7  | 21 - April 24, 2020 Letter from Donna       | 112 |
| 8  | Gunning to Claire Dant                      |     |
| 9  | 21a - Corrected April 24, 2020 Letter from  | 114 |
| 10 | Donna Gunning to Claire Dant                |     |
| 11 | 22 - Aid to Non-Public Schools Program      | 118 |
| 12 | FiscalYear 2020 Program Assurances          |     |
| 13 | 23 - Declaration of Claire Dent in Support  | 128 |
| 14 | of Plaintiff's Motion for Preliminary       |     |
| 15 | Injunction                                  |     |
| 16 | 26 - Claire Dant Letter to Washington Post  | 139 |
| 17 | 27 - Claire Dant Letter to Baltimore Sun    | 140 |
| 18 | 28 - September 24, 2019 Email Thread Claire | 141 |
| 19 | Dant And Bethel Christian Academy           |     |
| 20 | Families                                    |     |
| 21 |   |     |
| 22 |   |     |

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22

STIPULATION

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

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

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22

PROCEEDINGS

COURT REPORTER: We're on the record.

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

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

1 are attending, and your location?

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

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

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

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

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

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

16 THE WITNESS: Claire Dant.

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

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

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

1 forward.

2 MR. SCOTT: That's fine.

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

5 COURT REPORTER: Okay.

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

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

12 THE WITNESS: Yes. I do.

13 COURT REPORTER: Thank you. You may begin.

14 DIRECT EXAMINATION

15 BY MR. SCOTT:

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

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

8 A No.

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

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

11 A Yes.

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

20 A Yes. Thank you.

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

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

4 (EXHIBIT 1 MARKED FOR IDENTIFICATION)

5 VIDEOGRAPHER: Stand by, sharing now.

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

16 A Yes. It is.

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

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

21 Q What documents did you review?

22 A Pretty much all of the documents that we had

1 produced in regard to the case.

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

4 A No, sir.

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

8 A No, sir.

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

11 A Several meetings. Three or four.

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

14 A Probably.

15 Q More than ten?

16 A Probably not.

17 Q So somewhere between five and ten hours?

18 A Yes.

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

21 A This is my 20th year.

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

1 A Yes, sir.

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

4 A No.

5 Q What other positions have you held?

6 A Assistant principal and teaching staff.

7 Q Did you start as a teacher?

8 A Yes.

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

11 A In 2003.

12 Q And when did you become principal?

13 A In 2016.

14 Q And who do you report to?

15 A Dr. John Green and the church board.

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

17 A He is the lead pastor.

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

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

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

3 A That's the church ministry.

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

7 A Yes.

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

10 A Yes, sir.

11 Q And how many people are on that board?

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

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

15 A Not very frequently.

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

18 A No.

19 Q What is your educational background?

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

21 Q Sure.

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

1 Instruction.

2 Q From where?

3 A The University of Scranton.

4 Q And what year did you get that?

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

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

8 A I do.

9 Q From where?

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

12 Q Where's that?

13 A In Takoma Park, Maryland.

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

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

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

19 A Elementary Education.

20 Q Do you have any other degrees?

21 A I'm sorry, you broke up.

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

1 A No, sir.

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

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

6 Q Okay. Where?

7 A A school called Providence Christian School.

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

9 A In the late 1990s.

10 Q For how long?

11 A One year.

12 Q Have you had any other teaching positions?

13 A No.

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

16 A Since 1984.

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

19 A No. Preschool through eighth grade.

20 Q And what age does preschool begin?

21 A Three.

22 Q And how many students attend Bethel?

1 A This year, approximately 160.

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

3 A Yes, sir.

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

6 A 20-some.

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

9 A 30-some.

10 Q And where is the school located?

11 A In Savage, Maryland.

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

14 A Two.

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

17 A I have no idea.

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

20 A By the ministry.

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

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

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

5 A That is correct.

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

8 MR. TUCKER: Objection to form.

9 Q Let me rephrase that --

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

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

13 A To some degree, yes.

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

16 A Tuition, hot lunch, extended care fees.

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

19 A Such as what type of outside sources?

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

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

3           Q     Are those federal or state funds?

4           A     Those are federal.

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

7           A     No.

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

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

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

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

21           MR. SCOTT: Okay.

22 BY MR. SCOTT:

1 Q Do you know the answer?

2 A Not precisely, no.

3 Q Do you know roughly?

4 MR. TUCKER: Objection to form.

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

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

10 A Less than \$10,000.

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

13 A In what respect?

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

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

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

20 A Yes, sir.

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

1 A Primarily me.

2 Q Who else is involved in that?

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

6 Q And who is the assistant principal?

7 A Brenonda Jackson-Gray.

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

9 A It's Brenonda.

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

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

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

17 A Primarily me or Mrs. Gray may.

18 Q Mrs. Gray May? Who is that?

19 A Yes. Sorry. Jackson-Gray.

20 Q Oh, okay. The assistant principal?

21 A Yes.

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

1 the handbook.

2 (EXHIBIT 2 MARKED FOR IDENTIFICATION)

3 VIDEOGRAPHER: Stand by. Sharing now.

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

10 A That is correct.

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

15 A As stated, yes.

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

17 A Yes.

18 Q And the assistant principal?

19 A Yes.

20 Q Anybody else?

21 A No.

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

1 with the board on?

2 A No.

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

5 A Yes.

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

9 A Yes.

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

13 A That would be me.

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

16 A Yes.

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

19 A I'm sure there was.

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

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

1 long time.

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

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

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

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

13 Q And how often is it revised?

14 A Every year.

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

18 A Yes.

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

21 A What type of decisions are you referring to?

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

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

3 A Yes.

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

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

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

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

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

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

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

22 A Yes.

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

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

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

9 A Yes.

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

13 MR. TUCKER: Objection to form.

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

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

20 A Yes.

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

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

2 A Probably remove a child from the classroom.

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

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

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

10 A That would be correct.

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

13 A That would be correct.

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

17 A No.

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

22 A That's correct.

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

3 A Yes.

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

6 A Me and Mrs. Jackson-Gray.

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

12 A That is correct.

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

16 A That is correct.

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

19 A Correct.

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

1 that correct?

2 A Yes.

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

6 A Yes. It is.

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

9 A It depends on what they did.

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

12 A It depends on what they did.

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

15 MR. TUCKER: Objection to form.

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

18 Q Can you explain what you mean by that?

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

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

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

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

6           A     Acknowledgment that they understand the  
7 expectations.

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

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

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

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

18          Q     Anything else?

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

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

1           A       That's part of the process.

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

5           VIDEOGRAPHER:  We can hear you perfectly.

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

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

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

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

12          MR. TUCKER:  There?

13          THE WITNESS:  It just turned off.  Yes.

14          MR. TUCKER:  It happens.

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

18          MR. TUCKER:  Yeah.  Okay.

19          THE WITNESS:  Sorry about that.  Rebooting.

20          MR. TUCKER:  How about that?

21          THE WITNESS:  I can try to --

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

1 two-minute break while we try to --

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

3 MR. TUCKER: Okay.

4 COURT REPORTER: We are off the record.

5 (OFF THE RECORD)

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

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

9 THE WITNESS: I believe so.

10 MR. TUCKER: Yes -- yes.

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

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

15 (REPORTER PLAYS BACK REQUESTED TESTIMONY)

16 BY MR. SCOTT:

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

20 A Yes.

21 Q And what --

22 A Depending on the grade.

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

2 A Third grade and up.

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

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

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

9 A Yes.

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

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

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

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

22 Q And what happen -- what subject areas are

1 discussed during the interview?

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

4 Q What do you mean by procedural?

5 A How the school functions.

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

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

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

13 A There may be academic records.

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

15 A Sometimes they're not available.

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

18 A Yes, sir.

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

1 A It is primarily academics.

2 Q What -- anything else?

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

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

8 A Yes.

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

12 A Yes.

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

15 (EXHIBIT 3 MARKED FOR IDENTIFICATION)

16 VIDEOGRAPHER: Stand by.

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

19 VIDEOGRAPHER: Yes. Give me one second.

20 MR. SCOTT: Thank you.

21 BY MR. SCOTT:

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

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

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

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

9 A No.

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

11 A The one at the bottom.

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

15 A The building on Lincoln Street.

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

18 A That's it.

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

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

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

2 Q And what's the purpose of it?

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

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

9 A Yes.

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

16 A I do.

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

19 A It means not act in opposition to them.

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

22 A No.

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

5 A It is. Everyone is welcome.

6 Q Even if they disagree with the policy?

7 A Yes, sir.

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

11 A That is correct.

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

17 MR. TUCKER: Objection. Speculation.

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

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

22 A We do.

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

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

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

7 A That's correct.

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

9 (EXHIBIT 4 MARKED FOR IDENTIFICATION)

10 VIDEOGRAPHER: Stand by. Sharing now.

11 BY MR. SCOTT:

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

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

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

21 A Yes. It does.

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

1 emphasize key points," do you see that?

2 A I do.

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

7 A No. We did not.

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

10 A Yes. The BCA core values.

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

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

16 Q But it is called BCA core values?

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

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

21 A At the very beginning.

22 Q It looks like page 9?

1           A     Yep.  There they are.

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

6           A     No.  That is not correct.

7           Q     Okay.  They sign it during the interview?

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

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

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

14          Q     And that's what the form says?

15          A     Yes.  It does.

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

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

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

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

6 Q And the parents are required to sign this?

7 A Yes.

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

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

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

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

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

1 A That is correct.

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

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

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

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

15 MR. TUCKER: Objection to form.

16 Q Is that correct?

17 MR. TUCKER: Form.

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

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

1 A No.

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

3 VIDEOGRAPHER: Stand by.

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

7 (EXHIBIT 5 MARKED FOR IDENTIFICATION)

8 A Yes.

9 Q Okay. And what do these documents show?

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

12 Q Walks through what process?

13 A The enrollment process.

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

17 A Yes.

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

20 A Do you mean a status?

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

1 student was accepted?

2 A Yes, I am.

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

4 A The student was not accepted.

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

7 A Yes, sir.

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

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

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

18 A Right.

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

22 A Yes.

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

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

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

7 A No.

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

9 A I would have to conjecture.

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

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

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

19 A No. I don't.

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

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

3           Q     That's in the testing box?

4           A     Yes.

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

9           A     Yes.

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

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

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

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

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

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

1 were below grade level.

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

4 A Right.

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

8 A Because they didn't pass.

9 Q Didn't pass the test?

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

11 Q Did not pass the test, correct?

12 A Right.

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

15 A Below grade level.

16 Q That's the testing box again?

17 A Yes, sir.

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

20 A Yes.

21 Q And what was that?

22 A They tested below grade level.

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

4 A Yes, sir.

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

8 A Correct.

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

11 A Correct.

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

15 A Correct.

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

18 A No. I cannot tell for sure.

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

22 A AC was the person who administered the test.

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

3 A No. That data was apparently not entered.

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

7 A No there is not. That is correct.

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

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

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

14 A That's correct.

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

18 A Yes.

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

22 A That's correct.

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

2 A Yes. That's Amaris Carrington.

3 Q And what is her job?

4 A She's my administrative assistant.

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

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

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

13 A No.

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

16 A No. I'm not.

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

20 A That's correct.

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

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

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

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

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

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

13 A That's correct.

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

17 A Correct.

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

20 A Yes. Below grade level in all subjects.

21 Q That's the testing box again?

22 A Yes.

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

3 A No. I cannot tell.

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

7 A That's right.

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

10 A Correct.

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

13 A Yes.

14 Q Why?

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

17 Q So unsatisfactory test results, correct?

18 A I'm sorry?

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

21 A Correct.

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

1 this student's application was rejected?

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

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

6 A That is correct.

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

9 A No. It appears it was not completed.

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

12 A Because all the fields are virtually empty.

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

15 A No. We don't.

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

19 A That is correct.

20 Q Any other reason?

21 A No.

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

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

3 A That is correct.

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

6 A Yes.

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

9 A No. I'm not.

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

13 A That's correct.

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

18 A Yes.

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

21 MR. TUCKER: Objection to form.

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

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

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

6 MR. TUCKER: Objection to form.

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

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

12 A I do not.

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

15 A Me.

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

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

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

22 A No.

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

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

13          Q     How do you know that?

14          A     Having been told that.

15          Q     And who told you that?

16          A     Don't remember precisely.

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

19          A     That statement preexisted me.

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

1 A Yes, sir.

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

4 A I do not.

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

8 MR. TUCKER: Objection to form. Speculation.

9 Q You can answer.

10 A Not that I'm aware of.

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

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

18 Q Even if they're homosexual?

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

21 Q Even if they are homosexual, yes?

22 A All students.

1 Q Including homosexual students, correct?

2 A Including any student.

3 Q Including homosexual students, yes?

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

7 Q Including homosexual students, correct?

8 A Again, all students.

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

11 MR. TUCKER: Asked and answered.

12 A We don't discriminate against any students.

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

16 MR. TUCKER: Objection. Asked and answered.

17 She's already answered it.

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

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

22 BY MR. SCOTT:

1 Q Including homosexual students, yes or no?

2 A All students. Any student.

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

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

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

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

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

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

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

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

21 MR. TUCKER: Objection to form.

22 A We have a number of conduct policies --

1 Q Including one that says --

2 A -- it applies to all students.

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

6 A We have a dress code policy.

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

10 MR. TUCKER: Objection to form.

11 Q You can answer.

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

14 Q All right. Well --

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

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

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

4 A Yes. I do.

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

8 MR. TUCKER: Objection. Speculation.

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

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

12 MR. TUCKER: Objection. Speculation.

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

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

17 A I feel like that's still hypothetical.

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

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

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

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

9 BY MR. SCOTT:

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

13 MR. TUCKER: Speculation. Objection.

14 Speculation. Objection. Asked and answered.

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

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

22 A Not to my knowledge.

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

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

9 Q All right.

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

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

13 (OFF THE RECORD)

14 COURT REPORTER: We are back on the record.

15 BY MR. SCOTT:

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

22 A Yes.

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

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

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

7 A Yes.

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

11 A Yes.

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

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

18 Q What situation?

19 A Being asked to withdraw.

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

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

4 A Yes.

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

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

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

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

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

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

1 Q Why do you say that?

2 A Because they're too young.

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

8 MR. TUCKER: Objection to form.

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

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

14 A Yes.

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

18 A That's correct.

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

21 A Yes.

22 Q And I think you just testified a few minutes

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

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

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

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

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

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

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

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

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

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

1 teachings concerning marriage.

2 MR. TUCKER: Okay. Go ahead.

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

5 BY MR. SCOTT:

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

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

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

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

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

21 A Then I would say no.

22 Q Has Bethel ever had a student engage in

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

4 A No.

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

7 MR. TUCKER: Objection to speculation. Form.

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

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

13 A No.

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

17 A Part of it, yeah.

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

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

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

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

2 A Yeah.

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

6 A Correct.

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

11 A Yes.

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

17 A Yes.

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

20 A I do.

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

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

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

5           A     We believe all of our students are children.

6           Q     Including the middle school students?

7           A     Yes.

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

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

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

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

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

22          A     Possibly.

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

4 A I don't think so.

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

7 MR. TUCKER: Objection to form.

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

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

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

16 Q And what about kissing?

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

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

22 A I would not necessarily deem it as an

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

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

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

13 Q What about hugging?

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

16 Q Sorry. What about hugging?

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

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

21 A No.

22 Q Has ever -- has any student ever been

1 suspended from Bethel for engaging in inappropriate  
2 relationship?

3 A Yes.

4 Q How many instances of that? Either one.

5 A One.

6 Q And when was that?

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

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

12 A No.

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

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

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

19 A No.

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

22 A No.

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

4 A Yes.

5 Q Has this ever happened?

6 A No.

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

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

11 Q And how did that come about?

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

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

18 A Me.

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

22 A Yes.

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

4 A Throughout the entire program?

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

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

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

15 A Yes, sir.

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

18 A I think about -- about 13.

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

21 A Yes, sir.

22 Q And approximately how many students

1 participated that year?

2 A Approximately 18.

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

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

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

11 A As best I recall, yes.

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

17 A Correct.

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

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

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

1 them, right?

2 A Yes.

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

6 A That's correct.

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

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

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

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

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

19 A The former principal.

20 Q And who was that?

21 A Alice Green.

22 Q When did Ms. Green leave?

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

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

4 A When I took over in 2016.

5 Q Is Ms. Green related to Pastor Green?

6 A Yes.

7 Q Is it his wife?

8 A Yes.

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

11 (EXHIBIT 8 MARKED FOR IDENTIFICATION)

12 VIDEOGRAPHER: Stand by.

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

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

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

1 VIDEOPHOTOGRAPHER: Sharing now.

2 BY MR. SCOTT:

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

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

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

16 A Yes.

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

20 A Yes.

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

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

4 A No. Yes. I see it.

5 Q Okay. Who is Patti Wecker?

6 A She was functioning as an assistant principal.

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

9 A That one year.

10 Q What year?

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

12 Q And does she still work at the school?

13 A No. She does not.

14 Q When did she leave?

15 A The following year.

16 Q 2018?

17 A '17, '18.

18 Q Do you know why she left?

19 A She retired.

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

22 A 20-some years.

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

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

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

7 A Yes.

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

10 A She may have participated.

11 Q Did you also receive this e-mail?

12 A I don't recall.

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

14 (EXHIBIT 9 MARKED FOR IDENTIFICATION)

15 VIDEOGRAPHER: Stand by.

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

21 A Yes.

22 Q And the letter relates to the assurances that

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

3 A Correct.

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

6 A Correct.

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

8 (EXHIBIT 9A MARKED FOR IDENTIFICATION)

9 VIDEOGRAPHER: Stand by.

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

14 A Yeah. See it.

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

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

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

1           A     I'm not sure.

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

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

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

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

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

22          A     Are you referring to a particular document

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

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

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

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

14 A No. I do not.

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

16 VIDEOGRAPHER: Stand by.

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

21 (EXHIBIT 10 MARKED FOR IDENTIFICATION)

22 A Yes.

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

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

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

9 A Verbal communication?

10 Q Yes.

11 A Like -- like someone called me?

12 Q Right.

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

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

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

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

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

3           Q     So you --

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

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

8           A     No.  No.

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

11          A     It was probably with Monica Kearns.

12          Q     Are you sure of that?

13          A     Probably.

14          Q     You don't know for sure?

15          A     No.

16          Q     And you don't know --

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

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

21          A     I believe so.

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

1           A     I don't recall.

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

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

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

9           A     Not specifically, no.

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

12          A     That's correct.

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

16          A     No.

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

19          A     No.

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

1 on page 2, right?

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

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

6 BY MR. SCOTT:

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

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

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

14 A I did.

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

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

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

20 A No. I don't.

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

22 (EXHIBIT 11 MARKED FOR IDENTIFICATION)

1 VIDEOPHOTOGRAPHER: Stand by.

2 BY MR. SCOTT:

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

6 A Yes.

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

10 A Yes.

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

13 A I believe --

14 MR. SCOTT: Go to ne --

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

18 BY MR. SCOTT:

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

21 A I see it now, yes.

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

1 A Yes.

2 Q All right.

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

4 (EXHIBIT 12 MARKED FOR IDENTIFICATION)

5 VIDEOGRAPHER: Stand by.

6 BY MR. SCOTT:

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

13 A Yes.

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

15 A No.

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

18 A Correct.

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

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

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

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

7 A Correct.

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

9 (EXHIBIT 13 MARKED FOR IDENTIFICATION)

10 VIDEOGRAPHER: Stand by.

11 BY MR. SCOTT:

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

14 A Correct.

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

17 A Correct.

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

20 A Correct.

21 Q Did you ever attend any BOOST board meetings?

22 A No. I did not.

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

2 (EXHIBIT 14 MARKED FOR IDENTIFICATION)

3 VIDEOGRAPHER: Stand by.

4 BY MR. SCOTT:

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

8 A Yes. It is.

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

10 (EXHIBIT 15 MARKED FOR IDENTIFICATION)

11 VIDEOGRAPHER: Stand by.

12 BY MR. SCOTT:

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

16 A Correct.

17 Q You received this letter?

18 A Yes.

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

20 (EXHIBIT 16 MARKED FOR IDENTIFICATION)

21 VIDEOGRAPHER: Stand by.

22 BY MR. SCOTT:

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

4 A Yes.

5 Q And you wrote this letter?

6 A Yes.

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

8 A Correct.

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

13 A Correct.

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

15 (EXHIBIT 17 MARKED FOR IDENTIFICATION)

16 VIDEOGRAPHER: Stand by.

17 BY MR. SCOTT:

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

21 A Yes.

22 Q Okay. And you received this letter?

1 A Yes.

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

4 A Yes.

5 Q Did anybody else participate?

6 A Not that I recall.

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

8 VIDEOGRAPHER: Stand by.

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

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

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

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

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

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

21 MR. SCOTT: Okay. Thanks.

22 MR. TUCKER: Thank you, guys.

1 COURT REPORTER: Thank you.

2 VIDEOGRAPHER: If we're off the record.

3 COURT REPORTER: We are off the record.

4 (OFF THE RECORD)

5 COURT REPORTER: We're on the record.

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

8 (EXHIBIT 6 MARKED FOR IDENTIFICATION)

9 VIDEOGRAPHER: Stand by.

10 BY MR. SCOTT:

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

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

17 Q Did you print this out?

18 A My assistant did.

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

21 A She had date parameters.

22 Q Any others?

1 A No.

2 Q So what does this reflect?

3 A Students who had disciplinary action taken.

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

6 A I believe so.

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

9 A I suppose that's possible.

10 Q Do you know?

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

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

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

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

20 A That's correct.

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

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

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

10          A     Yes.

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

13          A     Yes.

14          Q     What is that?

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

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

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

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

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

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

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

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

12                     (EXHIBIT 6A MARKED FOR IDENTIFICATION)

13           VIDEOGRAPHER: Stand by.

14     BY MR. SCOTT:

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

18           A     It is a behavior report.

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

20           A     Yes.

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

22           A     It was pulled from the same database.

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

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

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

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

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

12 A I would have to compare them.

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

14 THE WITNESS: Yeah.

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

16 Last page.

17 BY MR. SCOTT:

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

20 A I do.

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

1 has more detail, 6A, correct?

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

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

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

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

13 A Yes.

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

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

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

21 A Correct.

22 Q And both of these students were suspended; is

1 that right?

2 A Correct.

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

5 A Correct.

6 Q Which was what?

7 A Hugging in the stairwell.

8 Q And that's prohibited by the --

9 A Yes.

10 Q -- handbook?

11 A Yes.

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

13 A Correct.

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

17 A No.

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

20 A No.

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

1 members of the BOOST Advisory Board?

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

4 Q She does not.

5 A Then, no.

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

8 A Have what? I'm sorry.

9 Q Guidance counselors.

10 A No. We do not.

11 Q What about social workers?

12 A No.

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

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

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

21 A That's correct.

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

1 (EXHIBIT 20A MARKED FOR IDENTIFICATION)

2 VIDEOGRAPHER: Stand by.

3 MR. SCOTT: Okay.

4 VIDEOGRAPHER: Actually, it's right here.

5 MR. SCOTT: Yes. Success.

6 BY MR. SCOTT:

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

11 A Can you scroll down? It looks familiar.

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

20 A No.

21 Q Why not?

22 A We were satisfied with our language,

1 expressing our beliefs.

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

5 A Not that I recall.

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

9 A There was no discussion regarding it.

10 Q And you made that decision, right?

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

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

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

18 Q And did you receive that information?

19 A I did.

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

21 A Put it in the file.

22 Q Did you read it first?

1 A I believe I may have scanned it.

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

4 A Yes.

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

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

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

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

13 Q And this was in 2019?

14 A Apparently so.

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

18 A Correct.

19 Q And so you were --

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

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

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

5 (EXHIBIT 19 MARKED FOR IDENTIFICATION)

6 A Correct.

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

9 A Sure. Yes.

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

12 A Yeah.

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

15 A Correct.

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

19 A Correct.

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

1 A I don't.

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

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

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

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

12 Q Anything else?

13 A Not particularly.

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

17 A Correct.

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

22 A Yes.

1 Q Why did Bethel reapply in 2020?

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

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

7 A Was not what?

8 Q Timely. It was late?

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

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

15 A We make revisions every year, so yes.

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

18 (EXHIBIT 21 MARKED FOR IDENTIFICATION)

19 VIDEOGRAPHER: Stand by.

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

22 BY MR. SCOTT:

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

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

10 BY MR. SCOTT:

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

13 A Correct.

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

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

20 MR. SCOTT: That's it?

21 VIDEOGRAPHER: Yeah.

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

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

3 COURT REPORTER: We are off the record.

4 (OFF THE RECORD)

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

6 BY MR. SCOTT:

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

11 (EXHIBIT 21A MARKED FOR IDENTIFICATION)

12 VIDEOGRAPHER: Sharing now.

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

19 A Yes.

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

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

3 A Correct.

4 Q Okay. Why was that language removed?

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

7 Q Why?

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

10 Q I understand --

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

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

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

18 Q Okay. And where was it moved to?

19 A The discipline conduct area.

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

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

1 stack in that discipline area where the --

2 Q It was --

3 A -- list of behavioral offenses maybe.

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

6 A Yes. This area. Yeah.

7 Q And where is the language about the marriage?

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

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

13 A At the front of the handbook.

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

15 A Yes. Yes.

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

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

21 Q Okay.

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

1 statement of faith.

2 Q Okay.

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

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

6 MR. TUCKER: Objection. Form.

7 A It states the scripture reference.

8 Q About condemning a homosexual lifestyle,  
9 correct?

10 MR. TUCKER: Objection. Form.

11 A The statement in the handbook reads that way.

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

21 A Yes.

22 Q Okay. And why was that added to the

1 disciplinary section of the handbook?

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

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

5 (EXHIBIT 22 MARKED FOR IDENTIFICATION)

6 VIDEOGRAPHER: Stand by.

7 BY MR. SCOTT:

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

13 A That's correct.

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

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

20 Q I think this --

21 A It's for year 2020?

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

1 2019-2020." Do you see that?

2 A Yes.

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

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

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

8 A Yes.

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

15 A Right. It does say that.

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

18 A Correct.

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

20 MR. TUCKER: Objection to form.

21 A What's not true?

22 Q That the school does not discriminate based on

1 gender identity or expression.

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

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

7 A That one will apply to all students.

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

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

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

18 MR. TUCKER: Objection. Form.

19 A We would not have asked that question.

20 Q What if the student --

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

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

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

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

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

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

15 A We've never had that situation.

16 Q What if you did?

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

20 Q Would you admit them?

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

1 Q You can answer.

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

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

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

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

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

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

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

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

13 (EXHIBIT 7 MARKED FOR IDENTIFICATION)

14 VIDEOGRAPHER: Stand by.

15 BY MR. SCOTT:

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

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

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

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

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

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

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

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

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

21 Q Okay. What did he say --

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

1 the statements may have been.

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

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

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

10 MR. TUCKER: Objection. Form.

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

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

17 MR. TUCKER: Objection. Form.

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

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

22 A I'm not sure.

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

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

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

7 BY MR. SCOTT:

8 Q What documentation are you referring to?

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

11 Q Okay. Well, my question --

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

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

18 A I do not know.

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

22 A Not to me.

1 Q To Bethel?

2 A Not to Bethel.

3 Q To anyone that Bethel was aware of?

4 A Not that I'm aware of.

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

7 A I understand.

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

10 A Yes.

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

16 A Yes.

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

19 MR. TUCKER: Objection. Form.

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

1 A No idea --

2 MR. TUCKER: Objection. Form.

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

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

7 A Yes.

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

9 (EXHIBIT 23 MARKED FOR IDENTIFICATION)

10 VIDEOGRAPHER: Stand by.

11 BY MR. SCOTT:

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

16 A Yes, sir.

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

1 A I do.

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

4 A That's true.

5 Q And it's true today, right?

6 A Yes.

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

12 MR. TUCKER: Objection to form.

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

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

19 A Could you restate that question, please?

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

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

4 A Okay.

5 MR. TUCKER: Objection. Form.

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

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

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

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

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

20 A I was not there.

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

1 toward Bethel based on Bethel's religious beliefs?

2 MR. TUCKER: Objection. Form.

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

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

9 MR. TUCKER: Objection to form.

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

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

14 A Correct.

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

19 A Yes.

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

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

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

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

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

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

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

14 Q Do you believe such a list exists?

15 A I do.

16 Q Okay. And have you seen it?

17 A Yes.

18 Q Okay. And --

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

21 Q And what does it say?

22 A It basically says that Bethel Christian

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

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

5 A Not off the top of my head.

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

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

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

14 MR. TUCKER: Objection to form --

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

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

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

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

22 A I don't know.

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

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

8 A I don't know the - I, personally, doesn't have  
9 any evidence other than the fact that some schools were  
10 in and my school was out.

11 Q Anything else?

12 MR. TUCKER: Same objection.

13 A No.

14 MR. SCOTT: All right. Why don't we just take  
15 a short break. I think I'm almost finished. I just  
16 want to go over my notes here and clean up any last  
17 minute things. So lets take a five-minute break,  
18 please.

19 MR. TUCKER: Okay.

20 COURT REPORTER: We are off the record.

21 (OFF THE RECORD)

22 COURT REPORTER: We are back on the record.

1 BY MR. SCOTT:

2 Q Okay. Thanks. So Ms. Dant, let's go back to  
3 your declaration, which was Exhibit 23. I want to ask  
4 you about paragraph 41. It says here that "An  
5 additional 20 prospective students inquired about  
6 attending Bethel and the financial aid available, but  
7 were unable to join Bethel for the 2019-2020 school year  
8 due to lack of student financial aid, including BOOST  
9 funding." Do you see that?

10 A I do.

11 Q Okay. Do you know who -- do you know who  
12 those students are, those prospective students?

13 A I could not list their names to you. We did  
14 look -- we did look up how many inquiry had mentioned  
15 financial aid as a concern.

16 Q And where did you look for that information?

17 A It's in the part of the online application  
18 includes an online inquiry.

19 Q Okay. So somebody can go online and make an  
20 inquiry, is that what you're saying?

21 A Yes.

22 Q And so you looked for those that checked --

1 that asked for information about financial aid; is that  
2 right?

3 A Yes.

4 Q And so if a prospective student made an  
5 inquiry, and included a request for information about  
6 financial aid, you included them in this number of 20  
7 prospective students?

8 A Yes.

9 Q Okay. Did you ever talk to any of these  
10 prospective students about what type of financial aid  
11 they were interested in?

12 A Yes. Certainly.

13 Q Okay. And did any of them mention BOOST?

14 A Yes.

15 Q Okay. How many?

16 A At least two.

17 Q Two of the 20?

18 A At least.

19 Q Okay. Do you know the -- do you remember  
20 their names?

21 A They are in some of the documentation we  
22 provided to you. I believe (confidential) and

1 (confidential).

2 Q Okay. Any other?

3 MR. TUCKER: Robert, I know we've got to -- I  
4 know we've got to enter into the protective order,  
5 which will -- we can talk about later but just for  
6 purposes of clarity, we probably want to mark those  
7 two names confidential to protect their disclosure.

8 MR. SCOTT: I don't have any problem with that.  
9 I do think we should get the order filed.

10 MR. TUCKER: Yeah.

11 BY MR. SCOTT:

12 Q Ms. Dant, you so you said at least two. Can  
13 you recall any other names?

14 A No. I cannot.

15 Q And then the next paragraph says, this is 42,  
16 "At least one other Bethel student will be forced to  
17 leave our school next year unless Bethel is it  
18 readmitted to BOOST." Do you see that?

19 A Yes.

20 Q Okay. Do you know who that student is?

21 A I do.

22 Q Who is it?

1 A I believe I do.

2 Q Who is it?

3 A That -- that name has not been provided to  
4 you. I'm not sure how to handle that.

5 Q Okay. Well, I think the information is  
6 relevant and I'm asking for it now.

7 MR. TUCKER: I'll just say is -- Robert, if you  
8 don't mind, is this a current student?

9 THE WITNESS: She's is no longer a current  
10 student.

11 MR. TUCKER: She's no longer at Bethel?

12 THE WITNESS: Right.

13 MR. TUCKER: Robert, as long as we can agree to  
14 protect subject again to a confidentiality order,  
15 which I'm sure we're going to be agreeing to, I'm  
16 okay with her answering that question.

17 MR. SCOTT: Okay. Thank you.

18 THE WITNESS: Okay. (confidential).

19 BY MR. SCOTT:

20 Q Can you spell that?

21 A (Confidential).

22 Q Okay. Okay. And you're saying she's no

1 longer a student at Bethel?

2 A Correct.

3 Q And I take it from this statement in the  
4 affidavit that she told you, or her parents told you,  
5 that she wouldn't be able to -- the reason she couldn't  
6 stay was because BOOST -- because Bethel was no longer  
7 participating in brute -- BOOST?

8 A Correct.

9 Q Okay. Did her parents tell you that?

10 A Yes.

11 Q Okay. And what were her parents -- what are  
12 her parents' names?

13 A Diana Turner. She only has a mom.

14 Q Okay. Thanks. So I have a couple of  
15 questions now that I'm going to ask you. Not in your  
16 capacity as a designee. So I know, we had agreed that  
17 we are going to do this both on the same day, so I just  
18 want to make clear that what I'm asking you about now is  
19 not your capacity as designee.

20 MR. SCOTT: Exhibit 26. Can we put that up?

21 (EXHIBIT 26 MARKED FOR IDENTIFICATION)

22 VIDEOGRAPHER: Stand by.

1 MR. TUCKER: Just for clarity. I think some  
2 were probably asked earlier in her individual  
3 capacity, but it may not make a difference. We can  
4 talk about that later if we need to.

5 BY MR. SCOTT:

6 Q Exhibit 26. Yes. Okay. So this is a  
7 document that was produced by your attorneys in this  
8 case and it appears to be a letter that you wrote to the  
9 Washington Post; is that right?

10 A Yes.

11 Q Okay. And you wrote this and submitted for  
12 publication in the Post?

13 A Yes.

14 MR. SCOTT: Okay. Exhibit 27.

15 (EXHIBIT 27 MARKED FOR IDENTIFICATION)

16 VIDEOGRAPHER: Stand by.

17 BY MR. SCOTT:

18 Q This is another document that was produced in  
19 discovery in this case, although it doesn't look like I  
20 got this one from your attorneys. This appears to be a  
21 letter that you wrote to the Baltimore Sun; is that  
22 right?

1 A Can you scroll up?

2 Q If you go to the first page.

3 A Yes. I believe so.

4 Q It says Baltimore Sun, when you look at the  
5 web address. It says Baltimore Sun there.

6 A Yes. I believe I wrote a letter to the  
7 editor.

8 MR. SCOTT: Okay. Exhibit 28.

9 (EXHIBIT 28 MARKED FOR IDENTIFICATION)

10 VIDEOGRAPHER: Stand by.

11 BY MR. SCOTT:

12 Q This is an e-mail that you sent to somebody  
13 whose name is blacked out. Actually, I'm sorry,  
14 somebody sent this e-mail to you; is that right?

15 A Yes. It appears that it was sent to me.

16 Q Okay. And then below the -- that, there is an  
17 e-mail that you sent looks like to a group of people,  
18 BCA Families, about the lawsuit, right?

19 A Yes.

20 Q Okay. And then the last page of this is, it  
21 looks like a press release from the Alliance Defending  
22 Freedom?

1 A Yes.

2 Q To the family's students at the school.

3 MR. TUCKER: Rob -- Rob we just -- Rob, I'm  
4 sorry, we lost you.

5 MR. SCOTT: Okay. Like how far back?

6 MR. TUCKER: Find out about -- we pro -- I  
7 would just restart this last question. We didn't  
8 pick it up.

9 BY MR. SCOTT:

10 Q So my question is, is that the last page of  
11 this -- well, the question was this female that she sent  
12 to the BCA Families forwarded the press release from the  
13 Alliance Defending Freedom, which is the last page of  
14 this exhibit; is that correct?

15 A Yes.

16 Q Okay. And we -- this asserts -- this press  
17 release asserts that Bethel fully complied with the  
18 voucher programs requirement that Maryland targeted it  
19 because of its religious views. And I asked you earlier  
20 about what evidence Bethel had to support its assertion  
21 that Maryland had targeted it, or was hostile towards it  
22 based on its religious views. And you testified that

1 you were relying only on the decision that was made to  
2 disqualify Bethel from the program, correct?

3 MR. TUCKER: Objection to form.

4 Mischaracterizes the evidence.

5 A Yes. I testified that I was relying on the  
6 fact that we were excluded from the program because of  
7 our handbook language stating our religious beliefs.

8 Q Right. Is there any other evidence that you  
9 are aware of that Maryland state officials targeted  
10 Bethel because of its religious views other than what  
11 you just said?

12 A And the fact that other schools were accepted  
13 into the program --

14 Q Right. But you don't know --

15 A -- having changed -- having changed their  
16 language.

17 Q Right. But you don't know what those schools  
18 are or what their handbooks said, right?

19 A It's in the documentation, but no, I don't  
20 know them.

21 MR. SCOTT: Okay. All right. I don't have any  
22 other questions at this time. Thank you for your

1 time today, Ms. Dant and --

2 THE WITNESS: You're welcome.

3 MR. SCOTT: -- have a good day.

4 MR. TUCKER: I --

5 MR. SCOTT: Go ahead.

6 MR. TUCKER: I just had -- I just had a few  
7 questions, Rob.

8 MR. SCOTT: Okay.

9 MR. TUCKER: For the witness. And Adam, I  
10 don't know if you can bring it up, but I think it  
11 was Exhibit 5. I'm trying to look at my notes here.

12 VIDEOGRAPHER: Stand by.

13 MR. TUCKER: Is it possible to bring up Exhibit  
14 5?

15 VIDEOGRAPHER: Yeah. Give me one second.

16 MR. TUCKER: Yes. That's it.

17 CROSS EXAMINATION

18 BY MR. TUCKER:

19 Q Ms. Dant, looking at Exhibit 5, do you see on  
20 the left side there where it says "status"?

21 A Yes.

22 Q And then it says "rejected" in the column, I

1 guess right next to it?

2 A Yes.

3 Q What does rejected mean?

4 A Rejected could mean that a student did not --  
5 their application did not meet our requirements or that  
6 the application was incomplete.

7 Q Okay. That's all I have for that particular  
8 exhibit. I do have a few more questions. Ms. Dant, you  
9 said that all students who pass the entrance exam are  
10 welcome at Bethel; is that correct?

11 A Yes.

12 Q Mr. Scott asked you about whether Bethel would  
13 admit homosexual children. Do you remember that  
14 discussion?

15 A I do.

16 Q And I believe you emphasize that you admit any  
17 and all qualified students; is that correct?

18 A That is correct.

19 Q Is that without respect to sexual attractions,  
20 orientation, or gender identity?

21 A Without respect to those things, yes.

22 Q Does Bethel ask about sexual orientation

1 during its admissions process?

2 A No. We do not.

3 Q Does Bethel ask about student generated --  
4 gender identity during its admissions process?

5 A No. We do not.

6 Q Do students' sexual orientation or gender  
7 identity relevant to Bethel's admissions process?

8 A No. It is not relevant.

9 Q Has Bethel ever asked about a student's sexual  
10 orientation or gender identity in the admissions process  
11 or at any point at all?

12 A No.

13 MR. TUCKER: That's all I have.

14 THE WITNESS: Okay.

15 MR. TUCKER: I don't have anything.

16 MR. SCOTT: I don't have anything further, so I  
17 believe we're finished.

18 COURT REPORTER: We are off the record.

19 (DEPOSITION CONCLUDED AT 2:44 P.M.)

20

21

22

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22

CERTIFICATE OF REPORTER

I do hereby certify that the witness in the foregoing transcript was taken on the date, and at the time and place set out on the Stipulation page hereof, by me after first being duly sworn to testify the truth, the whole truth, and nothing but the truth; and that the said matter was recorded by me and then reduced to typewritten form under my direction, and constitutes a true record of the transcript as taken, all to the best of my skill and ability. I certify that I am not a relative or employee of either counsel and that I am in no way interested financially, directly or indirectly, in this action.

*Brooke Andrew*

\_\_\_\_\_  
BROOKE ANDREW

COURT REPORTER/NOTARY

MY COMMISSION EXPIRES: 11/27/2021

SUBMITTED ON: 04/19/2021

# Exhibit 35



Report on the Fiscal 2020  
State Operating Budget (HB 100)  
And the State Capital Budget (HB 101)  
And Related Recommendations

---

By the Chairmen of the  
Senate Budget and Taxation Committee and  
House Appropriations Committee

Joint Chairmen's Report  
Annapolis, Maryland  
2019 Session



THE MARYLAND GENERAL ASSEMBLY  
ANNAPOLIS, MARYLAND 21401-1991

March 25, 2019

The Honorable Thomas V. Mike Miller, Jr.  
President of the Senate  
State House  
Annapolis, Maryland 21401-1991

The Honorable Adrienne A. Jones  
Speaker of the House of Delegates  
State House  
Annapolis, Maryland 21401-1991

Dear President Miller and Speaker Jones:

We are pleased to submit the reports of the Senate Budget and Taxation Committee and House Appropriations Committee dealing with the final actions taken on House Bill 100 and House Bill 101. House Bill 100 is the State operating budget, making appropriations for support of the State government, for aid to local governments, and for other purposes during the fiscal year ending June 30, 2020, and for deficiency appropriations for the fiscal year ending June 30, 2019. House Bill 101 is the State capital budget, authorizing general obligation debt for State facilities and for grants to local governments and nonprofit organizations for construction of and improvements to facilities and infrastructure.

These reports incorporate detailed statements of all reductions made to the appropriations and also contain expressions of legislative intent and policy guidelines which are an integral part of the action taken on the budgets. Explanations of reductions and other action are provided where the rationale may not be obvious.

Sincerely,

A handwritten signature in blue ink that reads "Nancy J. King".

Nancy J. King, Chairman  
Senate Budget and Taxation Committee

A handwritten signature in blue ink that reads "M. G. McIntosh".

Maggie McIntosh, Chairman  
House Appropriations Committee

## R00A03

discriminate in student admissions, retention, or expulsion, or otherwise discriminate against any student on the basis of race, color, national origin, sexual orientation, or gender identity or expression. Violating the provisions makes a school ineligible for participating in the Aid to Non-Public Schools Program. This action also adds language specifying that schools that violate the provisions must return all textbooks and technology received through the fiscal 2020 allocation to the Maryland State Department of Education. It also states that a school that violates the nondiscrimination requirements in fiscal 2019 or 2020 is not eligible to participate in the program in fiscal 2020 and states legislative intent that any school that violates the nondiscrimination requirements is ineligible to participate in any program providing funding to nonpublic schools for a total of three years.

### Committee Narrative

**Aid to Non-Public Schools Assurance:** It is the intent of the committees that nonpublic schools participating in the Aid to Non-Public Schools program that do not have a school or student policy addressing gender identity 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 students or employees regardless of a person's assigned sex at birth. However, any school that discriminates on the basis of gender identity or expression shall be subject to the penalties and consequences contained in the fiscal 2020 Budget Bill to return to the Maryland State Department of Education all textbooks or computer hardware and software and other electronically delivered learning materials loaned to students under the program acquired through the fiscal 2020 allocation and will be ineligible to participate in the program.

### Budget Amendments

#### R00A03.05 Broadening Options and Opportunities for Students Today

Amend the following language to the special fund appropriation:

- (a) ~~participate~~ have participated in Program R00A03.04 Aid to Non-Public Schools Program for textbooks and computer hardware and software administered by MSDE during the 2018-2019 school year;

**Explanation:** This language specifies that in order to participate in the Broadening Options and Opportunities for Students Today (BOOST) Program during the 2019-2020 school year, a nonpublic school must have already participated in the Aid to Non-Public Schools Program during the 2018-2019 school year. This language eliminates ambiguity for the Maryland State Department of Education, specifying that nonpublic schools are eligible for BOOST for the 2019-2020 school year by participating in the Aid to Non-Public Schools Program in the previous school year.

# Exhibit 36



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 16, 2018

Robin Davis, Principal  
Celebration Christian Academy  
6080 Foreland Garth  
Columbia, MD 21045

Dear Principal Davis,

In a letter from the BOOST Advisory Board dated December 19, 2017, schools participating in the BOOST Scholarship Program were notified that the Maryland State Department of Education (MSDE) would be conducting a review of student handbooks of all participating BOOST schools. The review was conducted because MSDE learned of schools that had admissions policies that directly contradicted the BOOST law, specifically with regard to sexual orientation.

Your school's handbook has been reviewed, and it has been determined that the handbook contains statements that contradict the BOOST law. Your school's handbook says the following:

### **ADMISSIONS POLICY**

#### **STATEMENT OF NONDISCRIMINATION**

Celebration Christian Academy does not discriminate on the basis of race, color, physical ability, national or ethnic origin in the administration of its educational policies, admissions policies, financial aid program, athletics, or other school-administered programs.

All new students are admitted under a Performance Plan, which their academic progress and their behavior are evaluated during their first quarter of attendance. Celebration Christian Academy is not equipped to facilitate special needs students.

Enrollment in Celebration Christian Academy is a privilege, not a right. Parents must understand that continued enrollment of their children is dependent on their support of the academy, its staff, and its policies.

**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.**

PAGE | 7

*CCA reserves the right to make changes to the content in this handbook when deemed necessary.*

**Exhibit  
118**

BOOST Scholarship Program

March 16, 2018

Page 2

Those statements in the student handbook contradict the Assurances that an official from your school signed on behalf of the school in 2017. The Assurances address the legal requirement that a school that accepts BOOST scholarships “will not discriminate in student admission on the basis of ... sexual orientation.”

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 2017-2018 school year.

It is our understanding that for the 2017-2018 school year, your school has 2 BOOST awardees with a total scholarship value of \$7,800. Pursuant to the law, the school may not charge the student tuition and fees to replace the BOOST scholarship funds that the school would have received if it were deemed an eligible BOOST school. The BOOST Advisory Board will notify the parents of the student that the law protects them from having to pay tuition and fees to replace the BOOST scholarship funds that will not be paid to your school. The Board will also explain that the student’s eligibility for a BOOST scholarship is not impacted by the fact that your school is an “ineligible” school. The BOOST scholarship is portable.

The Board wishes to inform you that your school may re-apply for BOOST school eligibility for the 2018-2019 school year. At that time, the Board may require a comprehensive review of the handbook and admission documents, as well as supplemental information on admission and denials of admission of students and other relevant information.

Finally, the Board wishes to point out that there are nonpublic schools in Maryland that disqualified themselves to be BOOST schools because, in light of their religious or moral beliefs, they could not sign the non-discrimination Assurance. That was the honorable decision, one that respected the use of public dollars to fund nonpublic education, one that respected the law. It is the expectation of the BOOST Advisory Board that all BOOST schools will follow that course of action, and do so before enrolling students with BOOST awards.

If you have questions about this matter, please contact Monica Kearns, Assistant State Superintendent, at (410) 767-8863 or [monica.kearns@maryland.gov](mailto:monica.kearns@maryland.gov).

Sincerely,



Matthew Gallagher  
Chair, BOOST Advisory Board

BOOST Scholarship Program

March 16, 2018

Page 3

cc: BOOST Advisory Board  
State Board Members  
Karen B. Salmon, Ph.D.  
Kristy Michel  
Monica Kearns  
Parents of BOOST Students Enrolled in the School  
William Reinhard  
Gayle Secrist  
Elizabeth M. Kameen

# Exhibit 37

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

BETHEL MINISTRIES, INC.,

\*

*Plaintiffs,*

\*

v.

\*

No. 1:19-cv-01853-SAG

DR. KAREN B. SALMON, *et al.*,

\*

*Defendants.*

\*

\* \* \* \* \*

**SECOND DECLARATION OF JAMES KLARMAN**

I, James Klarman, do solemnly declare and affirm under the penalties of perjury that the following facts are true and correct based upon my personal knowledge:

1. I am more than the age of 18 years and am competent to testify as a witness.
2. I am employed as the Nonpublic Schools Program Coordinator at the Maryland State Department of Education (“MSDE”). I have held this position since 2016.
3. As Non-public Schools Coordinator, I have personal knowledge of the matters set forth herein.
4. On February 21, 2018, I sent by email a copy of the memorandum dated January 9, 2018 that is attached as Exhibit 29 to Plaintiff’s Cross Motion for Summary Judgment filed in this case to Claire Dant of Bethel Christian Academy.
5. A true and correct copy of my email to Ms. Dant transmitting the memo, without the attachment, is attached to this declaration as Exhibit A.

I declare under penalty of perjury that the foregoing is true and correct.

7/15/21  
Date

James Klarman  
James Klarman

# Exhibit A

**From:** Jamie Klarman <james.klarman@maryland.gov>

**To:** Claire Dant <claire.dant@teambethel.org>

**Subject:** Handbook review information

**Date:** Wed, 21 Feb 2018 13:33:16 -0500

**Attachments:** [Enforcing Nondiscrimination and Reimbursement Memo 01-04-18 \(1\).docx](#)

**Inline-Images:** changingMD.png

---



Jamie Klarman

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)  
410-767-0141 (office)

[Click here](#) to complete a three  
question customer experience  
survey

# Exhibit 38

**From:** Jamie Klarman <james.klarman@maryland.gov>

**To:** Beckie Carbaugh [REDACTED]

**Subject:** Re: Notice concerning application status for Nonpublic Textbook and Technology program

**Date:** Tue, 20 Feb 2018 14:05:19 -0500

**Attachments:** [Enforcing Nondiscrimination and Reimbursement Memo 01-04-18 \(1\).docx](#)

**Inline-Images:** changingMD.png; image.png

---

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 [REDACTED] wrote:

Hi Jamie,

Thank you for your 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.

--

Jamie Klarman

Nonpublic Schools Program  
Coordinator

Maryland State Dept. of Education

Division of Business Services

[200 W. Baltimore Street](#)



[james.klarman@maryland.gov](mailto:james.klarman@maryland.gov)  
410-767-0141 (office)

[Click here](#) to complete a three  
question customer experience  
survey

--  
*Childhood should be a journey...not a race.*  
- Robert L. Johnson



Jamie Klarman  
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)  
410-767-0141 (office)

[Click here](#) to complete a three  
question customer experience  
survey