

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

Civil Action No. 24-cv-03512-CNS-STV

KRISTEN CROOKSHANKS, as parent and next of friend of a minor on behalf of C.C.;
MINDY SMITH, as parent and next of friend of a minor on behalf of E.S.;
NAACP–COLORADO–MONTANA–WYOMING STATE AREA CONFERENCE; and
THE AUTHORS GUILD,

Plaintiffs,

v.

ELIZABETH SCHOOL DISTRICT,

Defendant.

Defendant’s Answer to Complaint

Defendant Elizabeth School District submits this Answer to Plaintiffs’ Complaint, and alleges:

ANSWER

Response to “Introduction”

1. In Summer of 2024, the Elizabeth School District (“ESD” or the “District”), by and through its Board of Education (“the Board”), began a quest to limit students’ access to any books that contravene the Board members’ partisan, political values.

RESPONSE: Admit that in approximately September 2023, the Elizabeth School District Board of Education (“School Board”) became aware of a disconnect between its curricular goals and the content of the District’s library collections. Further admit that shortly thereafter the School Board tasked the Board Curriculum Review Committee (“Curriculum Committee”) with reviewing the District’s library collections and proposing a protocol to both guide that review and address student access to potentially controversial library content. Deny all remaining allegations.

2. The Board appointed a committee to review all of the books in ESD libraries and create a list of books containing “sensitive topics,” such as “racism/discrimination,” “religious viewpoints,” “sexual content,” “profanity/obscenity,” “graphic violence,” and “ideations of self-harm or mental illness.” Per Board policy, a book’s inclusion on this “Sensitive List” means that, any time a student checks it out, their parents receive an email that their child checked out the book. Parents can also choose to prohibit their children from checking out all books on the Sensitive List.

RESPONSE: Admit that the School Board tasked the Curriculum Committee with reviewing the District’s library collections and proposing a protocol to both guide that review and address student access to potentially controversial library content. Further admit that the Curriculum Committee proposed the Library Services Guiding Protocols (“Library Protocols”), which the School Board approved on August 12, 2024. To the extent paragraph 2 purports to characterize or summarize the contents of the Library Protocols, the document speaks for itself. Deny all remaining allegations.

3. Of the dozens of books on the Sensitive List, the committee identified 19 books that they believed were more sensitive than the rest. These books were primarily by or about people of color and/or LGBTQ+ people. They include *The Hate U Give* by Angie Thomas; *Beloved* by Toni Morrison; *The Bluest Eye* by Toni Morrison; *The Kite Runner* by Khaled Hosseini; *You Should See Me in a Crown* by Leah Johnson; *#Pride: Championing LGBTQ Rights* by Rebecca Felix; *Melissa/George* by Alex Gino; *It’s Your World—If You Don’t Like It, Change It* by Mikki Halpin; *The Perks of Being a Wallflower* by Stephen Chbosky; *Thirteen Reasons Why* by Jay Asher; *Looking for Alaska* by John Green, *Nineteen Minutes* by Jodi Picoult; and *Crank*, *Glass*, *Fallout*, *Identical*, *Burned*, and *Smoke*, all by Ellen Hopkins.

RESPONSE: Admit that the Curriculum Committee identified 19 titles that contained highly sensitive content, listed those titles on a Temporarily Suspended Books List, and recommended that the School Board temporarily suspend those titles from circulation pending further review. Further admit that some of those 19 titles also were inadvertently included on the Sensitive Topics List before being removed from that list. To the extent this paragraph attempts to characterize or summarize the contents of the Temporarily Suspended Books List, the document speaks for itself. To the extent this paragraph attempts to characterize or summarize the authors, or topics addressed by titles on that list, the books speak for themselves. Deny all remaining allegations.

4. Defendant District, through its Board, decided that all of those books should be “temporarily suspended” from ESD libraries and put on display at the Board’s office so that parents could review passages in the books flagged as objectionable and weigh in on whether the books should be returned to ESD libraries.

RESPONSE: Admit that at its August 12, 2024 meeting, the School Board approved the Curriculum Committee’s proposed Library Protocols and accepted the Committee’s recommendation to temporarily suspend the 19 titles it identified as containing highly sensitive content. Admit that in preparation for its August 12 meeting, the School Board requested that the 19 titles be removed from the relevant library locations so the School Board members could review the physical books in advance of the meeting. Admit that School Board member Mary Powell then flagged passages within the physical books to facilitate review of the suspended titles. Further admit that after the August 12 meeting, the District made 18 of the 19 suspended titles available for public review and feedback at the District’s office for a period of 25 days. Deny all remaining allegations.

5. On September 9, 2024, the Board announced its decision to permanently banish all “temporarily suspended” books from ESD libraries instead of returning them.

RESPONSE: Admit that at its September 9, 2024 meeting, the School Board voted 4-0 to permanently remove 18 of the 19 titles on the Temporarily Suspended Books List from the district library locations indicated on the list. Deny all remaining allegations, including Plaintiffs’ misuse of the term “banish.” Students remain free to access removed titles through other means (public libraries, private purchase, etc.) and to bring those books on campus. Additionally, copies of the removed books have been made available to the two Student-Plaintiffs and to any student in the District who is either a member of the NAACP — Colorado–Montana–Wyoming State Area Conference (“Plaintiff NAACP”) or who has a parent or guardian who is a member of Plaintiff NAACP, as described in the District’s opposition to Plaintiffs’ motion for preliminary injunction.

6. The Board decided not to return the books to ESD libraries because the books contained same-sex relationships, included LGBTQ+ characters, discussed racism, involved police violence, or otherwise struck Board members as “disgusting.”

RESPONSE: Deny.

7. The Board has also quietly removed at least one other book from ESD libraries in response to a parent's complaint. The Board removed K.A. Holt's *Redwood and Ponytail* from Running Creek Elementary's library because it is about two girls who develop feelings for each other.

RESPONSE: Admit that in September 2024, a parent expressed concern about *Redwood and Ponytail* by K.A. Holt, a book that his child had checked out from the Running Creek Elementary School library, and suggested that the book be added to the Sensitive Topics List and reviewed by the Curriculum Committee because the book's content was inappropriate for elementary-school students. Admit that in response, the School Board's president had the physical book held for further review once it was returned to the library. Further admit that the book has been returned to the shelves of Running Creek Elementary School library and will remain there pending the School Board's review of that book. Deny all remaining allegations.

8. The Board's removal of these books from ESD libraries is only one component of its broader effort to prescribe its own political orthodoxy in ESD schools. But it is an effort that runs afoul of the federal and state constitutions. It denies students access to books in their school libraries because of the ideas contained in those books and denies authors the right to share their books with ESD students free from viewpoint-based censorship.

RESPONSE: Deny.

9. While the District has discretion over certain curricular matters, the District cannot block students' access to information in their school libraries based on the Board's political preferences, nor can it remove authors' books from school libraries because of viewpoints the authors express.

RESPONSE: Admit that the District, which is directed by the School Board, has discretion to determine matters of curriculum. Admit that the selection of content for the District's libraries falls within its discretion to determine curriculum. Deny all remaining allegations.

Response to “Jurisdiction and Venue”

10. This Court has jurisdiction over Plaintiffs’ federal claims pursuant to 28 U.S.C. §§ 1331 and 1343, because they arise under the First Amendment to the United States Constitution and 42 U.S.C. § 1983. This Court has supplemental jurisdiction over Plaintiff’s pendent claims under the Colorado Constitution pursuant to 28 U.S.C. § 1367.

RESPONSE: This paragraph contains legal conclusions to which no response is required.

11. This Court has jurisdiction to grant declaratory relief under 28 U.S.C. § 2201, 28 U.S.C. § 2202, and C.R.S. § 13–51–101.

RESPONSE: This paragraph contains legal conclusions to which no response is required.

12. Venue is proper under 28 U.S.C. § 1391(b). All of the events alleged herein occurred within the District of Colorado, and all of the parties reside or conduct business within the District of Colorado.

RESPONSE: The first sentence of this paragraph contains legal conclusions to which no response is required. With respect to the second sentence, admit that all events alleged in the Complaint occurred in the District of Colorado. Further admit that the District conducts business in the District of Colorado. The District is without knowledge or information sufficient to form a belief as to the truth of the allegation that all Plaintiffs reside or conduct business within the District of Colorado, and on that basis denies the same.

Response to “Parties”

13. Plaintiff C.C. is a junior at Elizabeth High School. She is an avid reader and enjoys learning about different perspectives by reading books by diverse authors about diverse characters.

RESPONSE: Admit that Plaintiff C.C. is a junior at Elizabeth High School. The District is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in this paragraph and therefore denies the same.

14. Plaintiff C.C.'s mother wants her daughter to have access to a diverse array of books in the school library so that C.C. can learn about a diverse array of topics and viewpoints.

RESPONSE: The District is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore denies the same.

15. Plaintiff E.C. is in preschool at Running Creek Elementary in the Elizabeth School District. He will continue his education at Running Creek Elementary through fifth grade and then attend Elizabeth Middle School and then Elizabeth High School. E.C. uses the school library and will continue to use it as he gets older.

RESPONSE: Paragraph 15 appears to contain a typographical error. As corrected, the District admits that Plaintiff E.S. is in preschool at Running Creek Elementary School, which is one of two elementary schools in the district. The District is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in this paragraph and therefore denies the same.

16. Plaintiff E.C.'s mother wants her son to have access to a diverse array of reading materials so that they grow up to understand the value in many different ideas and viewpoints.

RESPONSE: Paragraph 16 appears to contain a typographical error. As corrected to Plaintiff E.S., the District is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore denies the same.

17. Plaintiff National Association for the Advancement of Colored People – Colorado – Montana – Wyoming State Conference (“NAACP”) seeks to ensure the political, educational, social, and economic equality of rights of all persons and to eliminate race-based discrimination. NAACP seeks to protect students’ right to access inclusive storytelling and viewpoints so that they can develop a deeper understanding of the inequities that exist in society and be exposed to marginalized voices. The interests NAACP seeks to protect through this lawsuit are germane to its purpose.

RESPONSE: Admit that the NAACP – Colorado – Montana – Wyoming State Conference is a plaintiff in this case. The District is without knowledge or

information sufficient to form a belief as to the truth of the remaining allegations in this paragraph and therefore denies the same.

18. The majority of NAACP's members identify as Black or African American, but NAACP also has members of other races. NAACP has members of all different gender identities and sexualities, including LGBTQ+ people.

RESPONSE: The District is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore denies the same.

19. Members of the NAACP include students who attend ESD schools who would have standing to sue in their own right and parents of those students.

RESPONSE: This paragraph contains legal conclusions to which no response is required. To the extent this paragraph contains factual allegations, the District is without knowledge or information sufficient to form a belief as to the truth of those allegations and therefore denies the same.

20. Members of the NAACP also include students who were attending ESD schools, but who left ESD schools in whole or in part because of the Board's restrictions on students' access to books. For example:

- a. Member 1 has a Black fifth grader who was enrolled in Running Creek Elementary until November 8. The fifth grader is an avid reader who enjoys exploring different perspectives and cultures through books. As one of very few Black students in her class, it is important to her that she and her peers have access to stories by Black authors about Black characters.
- b. Member 2 has a biracial preschooler who was enrolled in Running Creek Elementary until the end of August 2024. Member 2 pulled the preschooler out of ESD schools because she did not want her child to be subject to the Board's partisan whims. She wants her child to have access to a wide variety of books, and she does not want her child to think there is anything wrong with reading about LGBTQ+ people or people of color.

RESPONSE: The District is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph (including all subparagraphs) and therefore denies the same.

21. Neither the claims asserted nor the relief requested require the participation of individual NAACP members in this lawsuit, because individual proof is not required to demonstrate that the District violated—and continues to violate—the constitutional rights of NAACP members, or to obtain the requested relief.

RESPONSE: This paragraph contains legal conclusions to which no response is required. To the extent this paragraph could be interpreted as including imbedded factual assertions, deny.

22. Plaintiff The Authors Guild (the “Guild”) is a national nonprofit association of more than 14,000 professional, published writers of all genres. The Guild works to promote the rights and professional interests of its member authors. Many Guild members earn their livelihoods through their writing. Their ability to write on topics of their choosing and to explore viewpoints that some readers may disagree with is vital to their ability to make a living in their chosen profession. Members of the Guild who would have standing to sue in their own right include:

- a. Angie Thomas. Angie Thomas is a Black American author who wrote *The Hate U Give*, which the District removed from Elizabeth High School and Elizabeth Middle School. *The Hate U Give* was the number one *New York Times* bestseller the week it was released in 2017. Ms. Thomas is also the author of another young adult novel, *On the Come Up*.
- b. Alex Gino. Alex Gino is the author of several books that foster understanding and acceptance of LGBTQ+ identities especially for young readers. They are the author of *Melissa/George*, which the District removed from Running Creek Elementary. They have won several awards for their work, including the American Library Association’s Stonewall Book Award for exceptional LGBTQIAP+ children’s literature and a Lambda Literary Award.
- c. John Green. John Green has authored seven *New York Times* bestsellers, including *Looking for Alaska*, which the District removed from Elizabeth High School. Mr. Green’s other novels include *The Fault in Our Stars*; *An*

Abundance of Katherines; Paper Towns; Will Grayson, Will Grayson; Turtles All the Way Down; and The Anthropocene Reviewed.

- d. Jodi Picoult. Jodi Picoult has written 28 novels, including *Nineteen Minutes*, which the District removed from Elizabeth High School. Ms. Picoult's other novels include *My Sister's Keeper*, *The Pact*, *Plain Truth*, and *The Storyteller*. Her novels have been translated into 34 languages in 35 countries.
- e. Ellen Hopkins. Ellen Hopkins has written several *New York Times* bestselling novels. The District removed six books that she authored from ESD libraries: *Crank*, *Glass*, *Fallout*, *Identical*, *Burned*, and *Smoke*.

RESPONSE: This paragraph contains legal conclusions to which no response is required. To the extent this paragraph includes factual assertions about what books were removed from the District's libraries, the District admits that it permanently removed from the specified library locations all but one the titles (*Speak*) on the Temporarily Suspended Books List. That list speaks for itself. The District is without knowledge or information sufficient to form a belief as to the truth of the remaining factual allegations in this paragraph (including all subparagraphs), and on that basis denies the same.

23. The Guild seeks by this suit to protect its members' right to share their books and viewpoints without undue government censorship, and to promote the circulation of its members' books. Protecting these interests is germane to the Guild's purpose.

RESPONSE: The District is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore denies the same.

24. Neither the claims asserted nor the relief requested require the participation of individual Guild members in this lawsuit, because individual proof is not required to demonstrate that the Board violated—and continues to violate—the constitutional rights of Guild members or to obtain the requested relief.

RESPONSE: This paragraph contains legal conclusions to which no response is required. To the extent this paragraph could be interpreted as including imbedded factual assertions, deny.

25. Defendant Elizabeth School District is responsible for public education in Elizabeth.

RESPONSE: Admit.

Response to “Factual Background”

26. Elizabeth is a small but growing town in Elbert County, Colorado, located to the east of Colorado Springs. The majority of Elbert County’s residents are politically conservative.

RESPONSE: Admit that Elizabeth is a town in Elbert County, Colorado, and that it is located 45 miles northeast of Colorado Springs and 42 miles southwest of Denver. Further admit that Elbert County residents are politically diverse. Deny all remaining allegations.

27. Elizabeth School District serves roughly 2,600 students and is governed by a five-member Board of Education (“the Board”). Board members include President Rhonda Olsen, Vice President Heather Booth, Secretary Mary Powell, Treasurer Mike Calahan, and Assistant Secretary/Treasurer Jonathan Waller.

RESPONSE: Admit that the District currently serves just over 2,600 students and that the School Board is the body responsible for guiding the District. Further admit that the School Board is typically comprised of five members and that the current members of the board include President Rhonda Olsen, Secretary Mary Powell, Treasurer Mike Calahan, and Assistant Secretary/Treasurer Jonathan Waller. Deny all remaining allegations.

28. Elizabeth School District contains two elementary/preschools, Running Creek Elementary and Singing Hills Elementary, both of which serve students in preschool through fifth grade. The District contains one middle school, Elizabeth Middle School, which serves students in grades six through eight. The District contains one high school, Elizabeth High School, which serves students in grades nine through twelve.

The District contains one charter school, Legacy Academy, which serves students in kindergarten through eighth grade. The Board recently approved another charter school.

RESPONSE: Admit.

Response to “Factual Background – Politicization of Elizabeth School District’s Board of Education”

29. Until the 2021 Board election, the Board’s meetings were relatively calm and cordial. But the dynamics changed when two new Board members—Heather Booth and Rhonda Olsen—were elected on a mission to keep politically liberal ideologies out of Elizabeth schools. Tensions mounted over the next two years.

RESPONSE: Deny.

30. Board meetings became increasingly contentious as baseless accusations about the teaching of “Critical Race Theory” and “LGBTQ agendas” in Elizabeth schools were bandied about.

RESPONSE: Deny.

31. “Critical Race Theory” or “CRT” is a body of scholarship most commonly used in law schools and graduate schools that involves: (1) the pursuit of understanding how racial subordination originated and has been maintained in the United States, especially in relation to the legal system; and (2) a desire to change the legal system so that it no longer supports racial subordination. It is seldom taught in elementary or secondary education, and was not taught in Elizabeth schools.

RESPONSE: Deny that there is a single, accepted definition of “Critical Race Theory” or that all people who use that phrase understand it to mean the same thing. Admit that the District has worked hard to create a clear and defined curriculum. The District is without knowledge or information sufficient to form a belief as to the truth of the allegations suggesting that Critical Race Theory is “seldom taught in elementary or secondary education,” and on that basis denies the same. Deny any remaining allegations.

32. “LGBTQ+” refers to Lesbian, Gay, Bi, Transgender, or Queer or Questioning people or community.

RESPONSE: Admit that the acronym “LGBTQ+” is commonly understood to refer to people or groups who identify as lesbian, gay, bisexual, transgender, queer, or questioning. Deny any remaining allegations.

33. At a February 13, 2023 Board Meeting, the principal of Elizabeth High School implored Board members Booth and Olsen to “stop chasing ghosts,” because false claims about “CRT” and “LGBTQ agendas” were hampering the school’s work. The principal pled for help from the Board instead of “political grandstanding.” President Olsen responded by saying that her concerns have not been about what’s actually going on in schools, but on “keeping what is on the outside out of our schools.”

RESPONSE: Admit that there was a School Board meeting on February 13, 2023, and that it was recorded. To the extent the remaining allegations in this paragraph purport to quote, characterize, or summarize portions of that meeting, the recording speaks for itself. Deny all remaining allegations.

34. In March of 2023, more than half of the Board resigned, citing other Board members’ personal agendas and disregard for Board policy and ethics. The only two members who remained on the Board were Ms. Booth and Ms. Olsen.

RESPONSE: Admit that in March 2023 three School Board members resigned and that Heather Booth and Rhonda Olsen continued serving as School Board members. To the extent the remaining allegations in this paragraph purport to characterize or summarize written or recorded statements made by the resigning board members, those statements speak for themselves. Deny all remaining allegations.

35. Mary Powell was appointed to the Board to ensure there was a quorum to conduct district business. She was then elected, along with Mike Calahan and Jonathan Waller, to join the Board. Ms. Olsen was also reelected in the 2023 election, and Ms. Booth remained on the Board.

RESPONSE: Admit that Mary Powell was appointed to the School Board in March 2023, to serve until the next election and to ensure that there was a quorum to conduct district business. Admit that Mike Calahan and Jonathan Waller were then appointed to the School Board in April 2023, to serve until the next election. Admit that Ms. Powell, Mr. Calahan, Mr. Waller, and Rhonda Olsen were

up for election to the School Board in November 2023 and won by an overwhelming majority. Further admit that Heather Booth remained on the School Board and was not up for election in November 2023. Deny any remaining allegations.

36. In campaigning for the 2023 school board election, candidates Olsen, Powell, Calahan, and Waller made their political agenda clear. They pitched themselves as “conservatives for Elizabeth School Board.”



[Description: Campaign sign listing Mike Calahan, Rhonda Olsen, Mary Powell, and Jonathan Waller with the caption “conservatives for Elizabeth School Board”]

RESPONSE: Admit that Rhonda Olsen, Mary Powell, Mike Calahan, and Jonathan Waller ran in the November 2023 School Board election and were elected by an overwhelming majority. To the extent this paragraph partially quotes a campaign sign for these individuals, the sign speaks for itself. Deny all remaining allegations.

Response to “Factual Background – The Board Aims to Impose a Partisan, Political Orthodox in ESD Schools”

37. Board members have been open about their commitment to their political values—which they describe as conservative—and expressed pride in the purportedly conservative stands they have taken as Board members.

RESPONSE: Admit that the current School Board members and past School Board member Heather Booth have openly expressed their commitment to conservative values and worked hard to make decisions that embody the District's unofficial motto that "students are at the heart of everything we do." To the extent this paragraph purports to characterize or summarize written or recorded statements made by individual School Board members, those statements speak for themselves. Deny all remaining allegations.

38. Board Members were very vocal about "getting a superintendent and legal representation with conservative values." They succeeded with Attorney Brad Miller and Superintendent Dan Snowberger.

RESPONSE: Admit that the School Board hired Dan Snowberger as superintendent on March 13, 2023. Further admit that the School Board retained Brad Miller, of Miller Farmer Carlson Law, as its permanent counsel in May 2023. To the extent this paragraph purports to quote portions of written or recorded statements made by individual School Board members, those statements speak for themselves. Deny all remaining allegations.

39. Superintendent Snowberger recognizes that Elizabeth is "a very conservative community" and believes the "board's charge is to respond to the community that elected them and holds them accountable."

RESPONSE: Admit that Mr. Snowberger has publicly stated that the School Board is charged with responding to the community and taking seriously the community's wishes for the public education of its children. To the extent this paragraph purports to quote a written or recorded statement, that statement speaks for itself. Deny any remaining allegations.

40. The Board has directed Superintendent Snowberger not to talk about keeping politics out of schools, because, as Vice President Booth put it, "conservative values are exactly what we are and plan to continue to bring into the district." President Olsen added that it would be "confusing" to say the Board aims to keep politics out of schools given the Board's prior communications and decisions.

RESPONSE: To the extent this paragraph purports to quote, characterize, or summarize a written or recorded communication, that communication speaks for itself. Deny all remaining allegations

41. In Spring of 2024, the Board changed book fair providers. While the Board had historically relied on Scholastic, they put out a Request for Proposal to find a book fair partner that would ensure book fairs were devoid of any controversial materials that were contrary to the values of Elizabeth families. The Board ultimately switched from Scholastic to SkyTree Books, which promised a book fair without any LGBTQ+ content, Critical Race Theory, foul language, explicit content, and dark magic.

RESPONSE: Admit that on February 19, 2024, the District issued a Request for Proposal to identify a partner to operate book fairs within the District's schools during the 2024–25 school year. Admit that the District had previously used Scholastic Book Fairs. Further admit that the District received two responses (one from SkyTree Books and one from Scholastic) and ultimately selected SkyTree Books. To the extent this paragraph purports to characterize or summarize the district's Request for Proposal or the responses it received, those documents speak for themselves. Deny all remaining allegations.

42. The Board seeks to impose a political orthodoxy in ESD schools and ensure that content—including reading material—that is available to children in Elizabeth schools aligns with Board members' personal political preferences, which they describe as conservative.

RESPONSE: Deny.

43. The Board seeks to prohibit students from accessing information—including reading material—that contravenes its Board members' partisan, political values in Elizabeth schools.

RESPONSE: Deny.

44. The Board has sought to limit ESD students' exposure to LGBTQ+ identities and same-sex relationships.

RESPONSE: Deny.

45. Absent action from this Court, the Board will continue to restrict and remove access to information about LGBTQ+ identities and same-sex relationships in Elizabeth schools.

RESPONSE: Deny.

46. The Board has sought to limit ESD students' exposure to viewpoints on race and racism that contradict Board members' own views on the topic.

RESPONSE: Deny.

47. Absent action from this Court, the Board will continue to restrict and remove access to information about race and racism in Elizabeth schools.

RESPONSE: Deny.

48. Those who disagree with the Board's partisan, political agenda or question the Board's actions have been subject to public humiliation and retaliation. For example, parents who have submitted public records requests to the District or sued the District have been accused by the Board of "bullying" or "stealing from" the District and wasting the District's time and resources. Board members sometimes call such parents out by name at public meetings or in communications with other parents.

RESPONSE: Admit that there are some individuals who disagree with the School Board's decisions related to the District's library collections. The District is without knowledge or information sufficient to form a belief as to the truth of the allegation that unidentified parents have been accused by unidentified board members of wasting district resources. To the extent that this paragraph purports to quote or summarize statements made at unidentified board meetings that were recorded, those recordings speak for themselves. Deny all remaining allegations.

49. Many parents who have children in ESD schools are afraid to publicly express views that do not align with the Board's, because they fear being publicly shamed by Board members, being accused of bullying or harassing the District, or exposing their children to retaliation.

RESPONSE: The District is without knowledge or information sufficient to form a belief as to the truth of these allegations, and on that basis denies the same.

50. Superintendent Snowberger has confirmed that parents who are perceived as attacking the Board are shut down because it is exhausting to deal with them.

RESPONSE: Deny.

Response to “Factual Background – Implementation of Sensitivity Protocol”

51. In 2024, the Board was determined to cleanse ESD of books that contravene its partisan, political values.

RESPONSE: Deny.

52. The Board directed a committee of parents, teachers, administrators, and community members (the “Board Curriculum Review Committee” or “BCRC”) to create a list of books containing “sensitive” topics in ESD libraries.

RESPONSE: Admit that in the fall of 2023, the School Board tasked the Curriculum Committee with reviewing the District’s library collections and proposing a protocol to both guide that review and address student access to potentially controversial library content. Further admit that the Library Protocols ultimately proposed by the Curriculum Committee included guidelines for identifying titles with sensitive topics, and that the Curriculum Committee applied those guidelines in identifying titles that it recommended for placement on a Sensitive Topics List. Deny all remaining allegations.

53. “Sensitive” topics, according to the Board and the BCRC, include “racism/discrimination,” “drug or excessive alcohol use,” “religious viewpoints,” “ideations of self-harm or mental illness,” “profanity/obscenity,” “graphic violence,” and “sexual content.”

RESPONSE: Admit that the Library Protocols were created by the Curriculum Committee and approved by the School Board at its August 12, 2024 meeting. Further admit that the Library Protocols (among other things) lay out a process for evaluating the existing library collections for potential age-level sensitive content. Under the Library Protocols, *any* concern about sensitive content should be considered for age-level appropriateness, but the following seven topics require special attention: (1) graphic violence, (2) profanity/obscenity, (3) ideations of self-harm or mental illness, (4) religious viewpoints, (5) sexual content, (6) racism/discrimination, (7) drug or excessive alcohol use. Deny any remaining allegations.

54. To identify “sensitive” books, the BCRC began by looking at online lists of books that had been banned or challenged elsewhere. The BCRC then looked to see if those banned or challenged books were in ESD libraries.

RESPONSE: Admit that three individuals on the Curriculum Committee volunteered to start the process of reviewing the District’s library collections to identify titles that should be considered for inclusion on the Sensitive Topics List or for potential removal from one or more district library. Further admit that these reviewers used a triage approach, where each reviewer was assigned a subset of titles that had appeared on lists of frequently challenged books, which they would (i) check against the District’s library catalog, and (ii) if a title appeared in one of the District’s libraries, conduct a second-layer review of the work to evaluate it for potential age-level sensitive content. Deny any remaining allegations.

55. In determining whether to add a book to ESD’s Sensitive List, each member of the BCRC had a different level of discernment. Books deemed “sensitive” by one member may not have been deemed “sensitive” by another member.

RESPONSE: Deny.

56. Those reviewing the books often did not read the entire book, but instead read short segments that Internet sources had labeled controversial. Books were often added to the Sensitive List solely because a member of the BCRC took issue with an isolated passage in the book.

RESPONSE: Admit that the three reviewers from the Curriculum Committee did not have time to read the entirety of each title they considered for potential inclusion on the Sensitive Topics List or for potential removal from a district library. Further admit that the district’s library collections span tens of thousands of titles, making it impossible for reviewers to attempt to read the entirety of every title under consideration. Reviewers therefore relied on one or more of the third-party resources identified in the Library Protocols and their independent research, in addition to sometimes reading significant portions of the work itself, to assist their review. Deny all remaining allegations.

57. Parents can prohibit their children from checking out any books on the Sensitive List by notifying the District. Even if a parent allows their child to check out books on

the Sensitive List, however, they will still receive a notification any time their child does so. The notification tells the parent which “sensitive” book their child checked out.

RESPONSE: Admit that parents can opt out their child from checking out titles on the Sensitive Topics List from the school library. Further admit that parents who do not opt out their child receive an automated email notification if the child checks out a title on the Sensitive Topics List from the school library. Deny that the automated email notification identifies which title on the Sensitive Topics List was checked out. Deny any remaining allegations.

58. There is no way for a parent to opt out of receiving notifications about their children checking out sensitive books. Some parents feel burdened by these types of notifications, as they indicate that the Board believes parents should restrict their children’s access to those books.

RESPONSE: Admit that the District currently does not have a way for parents to opt out of receiving an automatic email notification when their child checks out a title on the Sensitive Topics List. Admit that the District is aware of two parents out of thousands who have complained about these automatic notifications. The District is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations, and on that basis denies the same.

59. Many parents have noticed that the books on the Sensitive List disproportionately target authors and characters of color and/or LGBTQ+ authors and characters. They do not want to receive notifications about their children checking out these books because it indicates that there is something wrong or questionable about those books.

RESPONSE: Deny that titles were placed on the Sensitive Topics List to “target” certain authors or certain kinds of characters. The District is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations, and on that basis denies the same.

60. Many parents would prefer not to receive an email simply because Board members believe the book their child picked is “sensitive.”

RESPONSE: Admit that the District is aware of two parents out of thousands who have complained about receiving automatic notifications when their child

checked out a book on the Sensitive Topics List. The District is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations, and on that basis denies the same.

61. Some of the books on the Sensitive List—for example, books about the Holocaust—have been used by Elizabeth teachers as part of their courses.

RESPONSE: Admit that some books used by teachers as part of the classroom curriculum also appear on the Sensitive Topics List. Parents receive advanced notice of all books that will be read as part of the classroom curriculum and can opt out their children from reading specific books, just like parents can opt out their children from checking out titles on the Sensitive Topics List from the school library. The District is without knowledge or information sufficient to form a more specific belief as to the truth of any the remaining allegations to the extent they involve unidentified courses where unidentified titles are supposedly taught by unidentified teachers, and on that basis denies the same.

62. The Board has the final say as to which books are on the Sensitive List.

RESPONSE: Admit that the School Board is legally responsible for the selection of instructional materials, including instructional materials for school classrooms and school libraries. Further admit that the School Board has authority to add or remove titles from the Sensitive Topics List. Deny any remaining allegations.

63. Books have been added to and taken off of the Sensitive List based on the whims of Board members. For example, *Anne Frank: Diary of a Young Girl, 1984*, and *Brave New World* were all initially on the Sensitive List. But the Board decided to take those books off the Sensitive List because they are “classics.” Additionally, a picture book series about a Siamese cat who thinks he is a chihuahua, *Skippyjon Jones*, was initially included on the Sensitive List, but it was removed after Elizabeth’s Chief Academic Officer told Secretary Powell that the series is one of her grandchildren’s favorites, and Secretary Powell said at a Board meeting that it’s a “very cute little story and there’s nothing wrong with that.”

RESPONSE: Admit that School Board members carefully considered the titles that the Curriculum Committee proposed for inclusion on the Sensitive Topics List and decided that some of the proposed titles should be removed from that list. The Sensitive Topics List that the School Board approved at its September 9,

2024 meeting reflects some of those decisions (in green). That document speaks for itself. To the extent this paragraph purports to quote or characterize written or recorded statements made by individual School Board members, those statements speak for themselves. Deny all remaining allegations.

64. Books that remain on the Sensitive List include *The Color Purple*, *I Know Why the Caged Bird Sings*, *To Kill a Mockingbird*, *Kaffir Boy*, *Muslim Festivals Throughout the Year*, *Catcher in the Rye*, *Slaughterhouse Five*, *The Hunger Games*, *Gay Power! The Stonewall Riots and the Gay Rights Movement 1969*, *Beyond Magenta – Transgender Teens Speak Out*, *Being Transgender in America*, and *Growing up LGBTQ*. Dozens of other books remain on the Sensitive List.

RESPONSE: Admit that the board approved changes to Sensitive Topics List at its September 9, 2024 meeting, which is the most current version of the list. To the extent this paragraph purports to recite a portion of the titles on that list, the document speaks for itself. Deny any remaining allegations.

65. Superintendent Snowberger clarified in an August 19 email that books on the Sensitive List “could also be removed based on further discussion between members of the community and the Board of Education.”

RESPONSE: Admit that the School Board retains the ability to refine or add to the Sensitive Topics List that it approved at its September 9, 2024 meeting. To the extent this paragraph purports to quote or characterize an email, that document speaks for itself. Deny any remaining allegations.

Response to “Factual Background – Initial Removal of Books from Library”

66. While most “sensitive” books were added to the Sensitive List but left in ESD libraries, there were some books that some reviewers believed were too sensitive or controversial to be kept in ESD libraries at all. The Board decided to remove these books from ESD libraries while they determined what to do about them.

RESPONSE: Admit that the Curriculum Committee identified 19 titles that contained highly sensitive content, listed those titles on a Temporarily Suspended Books List, and recommended that the School Board temporarily suspend those titles from circulation pending further review. Admit that the physical books were

removed (if available) from the relevant district libraries end of July or early August 2024, so the School Board could read and refer to the physical copies of those titles. Admit that the School Board approved the Curriculum Committee's recommendation to suspend the 19 titles during its August 12, 2024 meeting. Further admit that some of the 19 titles recommended for temporary suspension were inadvertently also included on the Sensitive Topics List before being removed from that list. Deny all remaining allegations.

67. On July 25, the Board Clerk informed the Elizabeth High School librarian that she had removed 14 books from the Elizabeth High School Library for further review. By August 9, three books had also been removed from the Elizabeth Middle School library, and one book was removed from the Running Creek Elementary library. In total, eighteen books (the "Removed Books") were taken out of ESD libraries.

RESPONSE: Admit that 18 titles, which equated to approximately 24 physical books (including duplicate copies), were removed from one or more district library before the School Board's August 12, 2024 meeting. The Sensitive Topics List includes the library locations from which each of the 18 titles was removed. That document speaks for itself. One copy of each of these 18 titles was made available for public review at the District's office for a period of 25 days. To the extent this paragraph purports to characterize or summarize emails, those documents speak for themselves. Deny any remaining allegations.

68. The Removed Books were not taken out of ESD libraries because they contain factual inaccuracies or are pervasively vulgar. They were taken out of ESD libraries because Board members sought to prescribe a partisan, political orthodoxy in ESD and disagreed with the ideas in the Removed Books.

RESPONSE: Deny.

69. The Board announced that the Removed Books would be "temporarily suspended" from ESD libraries and displayed in the Board's office for public review. Isolated passages were marked in many of the Removed Books so that parents could quickly turn to the parts of the books that the Board members found offensive. Based on the community's feedback on the Removed Books, the Board would decide the "final disposition" of the Removed Books.

RESPONSE: Admit that School Board accepted the Curriculum Committee's recommendation to suspend the 19 titles on the Temporarily Suspended Books List, that 18 of those titles were placed on display in the district office for public review, that School Board member Mary Powell flagged areas of concern within those 18 titles to facilitate public review and feedback, and that the School Board considered the community's feedback in making its final decision on the suspended titles. To the extent this paragraph purports to quote or summarize a written or recorded statement, that statement speaks for itself. Deny any remaining allegations.

70. Board members did not read each book in full before deciding to remove them from ESD libraries.

RESPONSE: Admit that four School Board members voted at the September 9, 2024 meeting to permanently remove the 18 titles that had been available for public review. Admit that each of those members did not read each of the 18 titles in full before voting on September 9, although some members read significant parts of some of the 18 titles. School board members who read parts of books varied in which books they read and how much of each book they read. Deny any remaining allegations.

71. The Board announced that, based on public feedback, the eighteen Removed Books would either be returned to the libraries and added to the Sensitive List, or they would be kept out of the ESD's collections altogether.

RESPONSE: Admit that the School Board intended to (and did) consider community feedback related to the 18 titles in determining whether to permanently remove those titles from the District's library collections or add them to the Sensitive Topics List and return them to pertinent library locations. Deny any remaining allegations.

72. For roughly 25 days, parents could review the books and fill out the form below indicating whether each book should be permanently kept out of ESD libraries, or returned to the library but included in the Sensitive List—meaning parents would automatically be notified if their child checked the book out. The form provided no option for returning the books to the library and allowing children to check them out without automatic parental notifications.

Elizabeth
BOOK REVIEW FORM

Name: _____

Where do your children attend school: _____

Phone: _____ Email: _____

Book Title: _____

Recommended Disposition of Book: I think this book should be ...

Returned to the library and listed on the sensitive topic list

Removed from the library collection

Reasons for the recommendation above:

[Description: Book Review Form allowing parents to indicate that a book should be “Returned to the library and listed on the sensitive topic list” or “Removed from the library collection”]

RESPONSE: Admit that the School Board made available to the public copies of 18 titles from the Temporarily Suspended Books List and that those titles were available at the District’s office for a period of 25 days. *Speak* was the only book on the Temporarily Suspended Books List that was not available for public review because it had been checked out and not returned. Admit that the School Board provided a “Book Review Form” for the community to use in providing feedback. That document speaks for itself. Deny all remaining allegations.

73. Some parents who opposed the Board’s decision to remove books from ESD libraries wrote in a third option on the form: return the books to the library without including them on the Sensitive List.

RESPONSE: Admit that some individuals who provided feedback on the district-provided forms opposed removal of one or more titles from the District’s libraries. The feedback provided on their Book Review Forms speaks for itself. Deny any remaining allegations.

74. Student Plaintiffs were unable to check out any of the eighteen Removed Books from the school library while they were made available in the Board's office.

RESPONSE: Admit that students cannot access the District's libraries or check out books during the summer. As such, until school started in mid-August, the Student-Plaintiffs could not check out the 18 titles that were made available for public review at the District's office, just as they could not check out any other titles from the District's libraries. Admit that in the time between school starting in mid-August and the School Board voting to permanently remove the titles on September 9, 2024, the Student-Plaintiffs could not check out any of the 18 titles that had been removed from their respective school libraries. Deny any remaining allegations.

75. The eighteen Removed Books were *The Hate U Give* by Angie Thomas; *Beloved* by Toni Morrison; *The Bluest Eye* by Toni Morrison; *The Kite Runner* by Khaled Hosseini; *You Should See Me in a Crown* by Leah Johnson; *#Pride: Championing LGBTQ Rights* by Rebecca Felix; *George/Melissa* by Alex Gino; *It's Your World—If You Don't Like It, Change It* by Mikki Halpin; *The Perks of Being a Wallflower* by Stephen Chbosky; *Thirteen Reasons Why* by Jay Asher; *Looking for Alaska* by John Green; *Nineteen Minutes* by Jodi Picoult; and *Crank, Glass, Fallout, Identical, Burned, and Smoke*, all by Ellen Hopkins.

RESPONSE: Admit that 18 titles were made available for public review in the District's office. The Temporarily Suspended Book List includes the author, title, and school-library locations for each of these titles. *Speak* is the only title on that list that was not made available for public review. To the extent this paragraph quotes or summarizes the Temporarily Suspended Book List, that document speaks for itself. Deny any remaining allegations.

76. *Speak* by Laurie Anderson was initially on the list of books to be "temporarily suspended" from Elizabeth High School's library, but the Board stated it had been checked out the previous school year and never returned. *Speak* is about a freshman in high school who calls the police because she is raped at an end-of-summer party. She is then ostracized by her peers who don't know why she called 9-1-1. By the end of the novel, she finds her voice and becomes a hero. On information and belief, if *Speak* were returned, the Board would remove it.

RESPONSE: Admit that *Speak* had been checked out from the Elizabeth High School library and not returned. As a result, it was not one of the books available in the District's office for public review. To the extent this paragraph characterizes or summarizes *Speak*, the book speaks for itself. Admit that *Speak* was recently returned to the library. Because the book is at-issue in active litigation, counsel for the District has possession of the book. Deny any remaining allegations.

77. Many of the Removed Books have been in school libraries in ESD—and across the country—for years. They are educationally valuable and nondisruptive.

RESPONSE: Admit that the 18 titles that the School Board voted to permanently remove had been in the district's libraries for anywhere from three to over 20 years. Eight had never been checked out, and eight had been checked out fewer than five times. The District is without knowledge or information sufficient to form a belief as to the truth of the allegations about the availability of these books "across the country," and on that basis denies the same. Deny all remaining allegations.

78. Plaintiff C.C. intended to browse and/or check out *The Hate U Give*, *Beloved*, *The Bluest Eye*, *The Kite Runner*, *The Perks of Being a Wallflower*, *Thirteen Reasons Why*, *Looking for Alaska*, *Nineteen Minutes*, *Crank*, *Glass*, *Fallout*, *Identical*, *Burned*, and *Smoke* from the Elizabeth High School library. But she has not been able to access the books there since the District removed them.

RESPONSE: The District is without knowledge or information sufficient to form a belief as to the truth of the allegations about Plaintiff C.C.'s intent or her supposed inability to access these books from other sources, and on that basis denies the same. The District states that all of the titles listed in this paragraph are available at the Pines and Plains public library, which serves the Elizabeth community. Deny that Plaintiff C.C. does not have access to these titles at the Elizabeth High School. Copies of the removed books have been made available to the two Student-Plaintiffs and to any student in the District who is either a member of Plaintiff NAACP or who has a parent or guardian who is a member of Plaintiff NAACP, as described in the District's opposition to Plaintiffs' motion for preliminary injunction.

79. Plaintiff NAACP has members in Elizabeth Middle School and Running Creek Elementary intended to be able to browse and/or check out *The Hate U Give*, *Thirteen Reasons Why*, *#Pride: Championing LGBTQ Rights*, *You Should See Me in a Crown*, *It's Your World—If You Don't Like It, Change It*, and *Melissa/George* in their school libraries but have not been able to access the books there since the District removed them.

RESPONSE: The District is without knowledge or information sufficient to form a belief as to the truth of the allegations about Plaintiff NAACP's members or their supposed inability to access these books from other sources, and on that basis denies the same. Deny that Plaintiff NAACP's members do not have access to these titles at district libraries. Additionally, copies of the removed books have been made available to the two Student-Plaintiffs and to any student in the District who is either a member of Plaintiff NAACP or who has a parent or guardian who is a member of Plaintiff NAACP, as described in the District's opposition to Plaintiffs' motion for preliminary injunction.

80. Plaintiff NAACP has members who are parents of ESD students and intended for their children to be able to browse and/or check out *The Hate U Give*, *Thirteen Reasons Why*, *#Pride: Championing LGBTQ Rights*, *You Should See Me in a Crown*, *It's Your World—If You Don't Like It, Change It*, and *Melissa/George* in their school libraries.

RESPONSE: The District is without knowledge or information sufficient to form a belief as to the truth of the allegations about Plaintiff NAACP's members who are parents or their supposed intention to have their children browse or check out the listed titles, and on that basis denies the same. Deny that Plaintiff NAACP's members who are parents have children who lack access to these titles at district libraries. Additionally, copies of the removed books have been made available to the two Student-Plaintiffs and to any student in the District who is either a member of Plaintiff NAACP or who has a parent or guardian who is a member of Plaintiff NAACP, as described in the District's opposition to Plaintiffs' motion for preliminary injunction.

81. *The Hate U Give* by Guild member Angie Thomas is about a Black sixteen-year-old girl who lives in a poor neighborhood and attends a suburban prep school. She witnesses her best friend get shot by police and at first declines to speak publicly about it, but over the course of the novel, she decides to speak out and honor his memory. Before *The Hate U Give* was "temporarily suspended," it was available for students to

peruse or check out in the Elizabeth Middle School library and the Elizabeth High School library.

RESPONSE: Admit that before it was removed from circulation, this title was available to students in the Elizabeth Middle School library and the Elizabeth High School library. Assuming it was not already checked out, this title would have been available to browse or check out. To the extent this paragraph attempts to characterize or summarize the contents of the title, the book speaks for itself. Admit that this title was written by Angie Thomas. The District is without knowledge or information sufficient to form a belief as to the truth of the allegations as to Angie Thomas's Guild membership, and on that basis denies the same. Deny any remaining allegations.

82. *The Hate U Give* expresses Angie Thomas's views on racism, police misconduct, and the value of teenagers using their voices to advocate for people and causes they care about. Ms. Thomas intends to share those views with teenagers who might feel alone or hesitant to speak up about their values and experiences. When *The Hate U Give* is removed from school libraries, Angie Thomas is unable to reach her target audience—teenagers who may be processing trauma, confronting racism, or feeling split between two worlds.

RESPONSE: The District is without knowledge or information sufficient to form a belief as to the truth of the allegations about the author's views or intentions, and on that basis denies the same. Deny all remaining allegations.

83. Parents who filled out the Board's forms about *The Hate U Give* disagreed as to whether it should be permanently banned or returned to ESD libraries. Multiple parents filled out forms advocating against returning *The Hate U Give* to ESD libraries because of "anti-police" viewpoints expressed in it. Parent forms indicated the book is "[b]iased towards police—name calling them Pigs," contains "[h]ate for cops," includes "police viewed in a bad light," or "pushes the wrong and dangerous narrative of racist cops killing young Black men." On the other hand, some parents believed the book should be returned to the library because "[w]hether we like it or not kids are going to be exposed to situations represented in this book."

RESPONSE: This paragraph purports to partially quote or summarize the Book Review Forms that were submitted to the district for this title. Those forms speak for themselves. Deny any remaining allegations.

84. *Beloved* is a novel by Toni Morrison, a critically acclaimed Black American author. The story takes place after the Civil War and was inspired by the life of Margaret Garner, who escaped slavery in Kentucky and fled to Ohio in 1856. The novel won the Pulitzer Prize for Fiction in 1988. Before *Beloved* was “temporarily suspended,” it was available for students to peruse or check out in the Elizabeth High School library.

RESPONSE: Admit that before it was removed from circulation, this title was available to students in the Elizabeth High School library. This title was never checked out. To the extent this paragraph attempts to characterize or summarize the contents of the title, the book speaks for itself. Admit that this title is written by Toni Morrison. Deny any remaining allegations.

85. Parents who filled out the Board’s forms about *Beloved* disagreed as to whether it should be permanently banned or returned to ESD libraries. One form characterized the novel as “sexual deviancy porn” that should not be in ESD libraries. Another indicates that “Toni Morrison is an internationally acclaimed and beloved chronicler of African American history. Nasty things happened. Suppressing an idea does not get rid of it and people who want to explore this should be free to do so.”

RESPONSE: This paragraph purports to partially quote or summarize the Book Review Forms that were submitted to the district for this title. Those forms speak for themselves. Deny any remaining allegations.

86. *The Bluest Eye* is Toni Morrison’s first novel. *The Bluest Eye* is about Pecola Breedlove, a young Black girl who wishes she had lighter features—in particular, blue eyes. Many Advanced Placement courses across the country teach *The Bluest Eye*. Before *The Bluest Eye* was “temporarily suspended,” it was available for students to peruse or check out in the Elizabeth High School library.

RESPONSE: Admit that before it was removed from circulation, this title was available to students in the Elizabeth High School library. This title was never checked out. To the extent this paragraph attempts to characterize or summarize the contents of the title, the book speaks for itself. Admit that this title is written by Toni Morrison. Deny any remaining allegations

87. Parents who filled out the Board's forms about *The Bluest Eye* disagreed as to whether it should be permanently banned or returned to ESD libraries. While some Elizabeth parents advocated for the book to be banned from school libraries because of its discussion of incest, rape, and abuse, others believed the book should be returned to the library because it does not contain information they are concerned about their children accessing in an educational institution.

RESPONSE: This paragraph purports to partially characterize or summarize the Book Review Forms that were submitted to the district for this title. Those forms speak for themselves. Deny any remaining allegations.

88. *The Kite Runner* by Khaled Hosseini is a historical fiction novel about friendship between a wealthy boy and his father's servant's son in Kabul. The main character flees from Afghanistan to the United States after the 1979 Soviet invasion, and later travels back to Afghanistan when it is under Taliban rule. *The Kite Runner* has been the #1 *New York Times* bestselling novel. The Princeton Review recommends *The Kite Runner* for students preparing for Advanced Placement exams. Khaled Hosseini himself receives mail from high school readers of the *Kite Runner* who say that the book has called them to "stand up to bullies," "defy intolerance," and "muster the courage to do the right and just thing, no matter how difficult." For many, *The Kite Runner* is "their first window into Afghan culture," and the book helps them "gain a more nuanced and compassionate perspective on the country and its people." Before *The Kite Runner* was "temporarily suspended," it was available for students to peruse or check out in the Elizabeth High School library.

RESPONSE: Admit that before it was removed from circulation, this title was available to students in the Elizabeth High School library. Assuming it was not checked out, this title would have been available for students to browse or check out. To the extent this paragraph attempts to characterize or summarize the contents of the title, the book speaks for itself. Admit that this title is written by Khaled Hosseini. The District is without knowledge or information sufficient to form a belief as to the truth of allegations regarding communications the author has supposedly received or regarding individual reader's perceptions of the book, and on that basis denies the same. Deny any remaining allegations.

89. Parents who filled out the Board's forms about *The Kite Runner* disagreed as to whether it should be permanently banned or returned to ESD libraries. One Elizabeth

parent of a high school student wrote that she “do[es] not want [her] teens reading a book that criticizes Christianity,” though it is unclear which part of *The Kite Runner* could plausibly be interpreted as a criticism of Christianity. Another form indicates that “violence + depravity of Islam is on display in this book. Even adults shouldn’t read it.” On the other hand, one ESD parent wrote that “*Kite Runner* changed my views. Reading that book made me a reader.” Another wrote that topics like suicide and sexual assault “have merit in an educational institution because our children will be confronted with these topics – hopefully not due to personal experience, but through our shared human experience.”

RESPONSE: This paragraph purports to partially quote or summarize the Book Review Forms that were submitted to the district for this title. Those forms speak for themselves. Deny any remaining allegations.

90. *You Should See Me in a Crown* by Leah Johnson is about a Black, queer teenager who runs for prom queen in order to get a college scholarship. She also develops feelings for another prom queen contender and learns that honesty is necessary to make a relationship work. Before *You Should See Me in a Crown* was “temporarily suspended,” it was available for students to peruse or check out in the Elizabeth Middle School library.

RESPONSE: Admit that before it was removed from circulation, this title was available to students in the Elizabeth Middle School library. This title was never checked out. To the extent this paragraph attempts to characterize or summarize the contents of the title, the book speaks for itself. Admit that this title is written by Leah Johnson. Deny any remaining allegations.

91. Parents who filled out the Board’s forms about *You Should See Me in a Crown* disagreed as to whether it should be permanently banned or returned to ESD libraries. While some in the community believed the book should be removed for its alleged “CRT undertones and homosexual storyline,” “queer factor,” or “same sex dating mentioned,” others advocated for it to be returned to the library, noting that Goodreads referred to it as “a self-love anthem for queer black girls everywhere.”

RESPONSE: This paragraph purports to partially quote or summarize the Book Review Forms that were submitted to the district for this title. Those forms speak for themselves. Deny any remaining allegations.

92. *#Pride: Championing LGBTQ Rights* by Rebecca Felix is a history of the Pride movement from the Stonewall riots to the modern LGBTQ rights movement. Before *#Pride: Championing LGBTQ Rights* was “temporarily suspended,” it was available for students to peruse or check out in the Elizabeth Middle School library.

RESPONSE: Admit that before it was removed from circulation, this title was available to students in the Elizabeth Middle School library. This title was never checked out. To the extent this paragraph attempts to characterize or summarize the contents of the title, the book speaks for itself. Admit that this title is written by Rebecca Felix. Deny any remaining allegations.

93. Parents who filled out the Board’s forms about *#Pride: Championing LGBTQ Rights* disagreed as to whether it should be permanently banned or returned to ESD libraries. Some parents wrote on their forms that “LGBTQ themes do not belong in our public schools,” and the book should be removed “because of its support of the Pride movement and villainization of Christians on Pg 6.” Meanwhile, other parents believed the book could give LGBTQ+ kids “a way to realize they aren’t alone + its ok to ‘be different than the norm’ (straight or identifying as the gender you’re born with).”

RESPONSE: This paragraph purports to partially quote or summarize the Book Review Forms that were submitted to the district for this title. Those forms speak for themselves. Deny any remaining allegations.

94. *Melissa/George* by Guild member Alex Gino is about a fourth grader who most people think is a boy, but she knows she is a girl. The main character was given the name George at birth, but the character does not want to use that name for herself—she uses Melissa. In 2022, Alex Gino republished the book with the name *Melissa* and encouraged people to print out a new cover for copies of the books that were published as *George* or use sharpies to correct the name on the book itself. Board members have primarily referred to the book as *George*. The novel has won the Lambda Literary Award, the Stonewall Award, among others. Before the book was “temporarily suspended,” it was available for students to peruse or check out in the Running Creek Elementary library. *Melissa/George* was also previously available in the Singing Hills Elementary library, but it is no longer available there.

RESPONSE: Admit that before it was removed from circulation, this title was available to students in the Running Creek Elementary School library. This title

was available for students to browse or check out. Admit that this title was also once available in the Singing Hills Elementary School library, but it was weeded out of that library before the Temporarily Suspended Book List was compiled. Admit that the School Board members have primarily referred to this title as *George*. To the extent this paragraph attempts to characterize or summarize the contents of the title, the book speaks for itself. Admit that this title is written by Alex Gino. The District is without knowledge or information sufficient to form a belief as to the truth of the allegations regarding Alex Gino's Guild membership or the motives or circumstances surrounding the decision to republish the book in 2022, and on that basis denies the same. Deny any remaining allegations.

95. *Melissa/George* expresses Alex Gino's viewpoint that LGBTQ+ people should be accepted and allowed to fully be themselves. The book also expresses the author's viewpoints on courage, self-discovery, and friendship. *Melissa/George* is a vital resource for students who seek to better understand gender diversity, and transgender students who seek books with relatable characters. When *Melissa/George* is removed from school libraries, the author is unable to reach their target audience and those who need access to the book the most.

RESPONSE: To the extent this paragraph attempts to characterize or summarize the contents of the title, the book speaks for itself. The District is without knowledge or information sufficient to form a belief as to the truth of the allegations regarding the author's viewpoints and regarding this title as a "vital resource" for the specified types of students, and on that basis denies the same. Deny all remaining allegations.

96. Parents who filled out the Board's forms about *Melissa/George*, disagreed as to whether it should be permanently banned or returned to ESD libraries. One parent of a high school student wrote that the book should be removed because it "is evil trans ideology." A couple with children at Running Creek Elementary wrote that "there are only TWO genders and they are not interchangeable." They voted to remove the novel because the "subject matter" has "no place in school." One Running Creek Elementary parent, however, wrote that LGBTQ+ topics do have merit in an educational setting because "these are important social issues my children will need to understand."

RESPONSE: This paragraph purports to quote or summarize the Book Review Forms that were submitted to the district for this title. Those forms speak for themselves. Deny any remaining allegations.

97. *It's Your World—If You Don't Like It, Change It* by Mikki Halpin discusses how to act on a person's beliefs and make a difference. Before *It's Your World—If You Don't Like It, Change It* was "temporarily suspended," it was available for students to peruse or check out in the Elizabeth Middle School library.

RESPONSE: Admit that before it was removed from circulation, this title was available to students in the Elizabeth Middle School library. The title was never checked out from the middle-school library. Further, the title was and is still available in the Elizabeth High School library. To the extent this paragraph attempts to characterize or summarize the contents of the title, the book speaks for itself. Admit that this title is written by Mikki Halpin. Deny any remaining allegations.

98. Parents who filled out the Board's forms about *It's Your World—If You Don't Like It, Change It* disagreed as to whether it should be permanently banned or returned to ESD libraries. One parent wrote that the book should be kept out of ESD libraries because it allegedly "supports abortion," "talks heavily of sex education," and "encourages the reader to oppose parental notification laws which is exactly what our ESD board is trying to put in place." Others voted to remove the book because they believed that it is a "very biased, leftist book," or is "overly political with an outright Marxist slant" and is "offensive morally to Christians, Muslims and orthodox jews." Meanwhile, one parent voted to return the book to the library because she saw no problem "with the topic of standing up for what you believe in + trying to change things."

RESPONSE: This paragraph purports to quote or summarize the Book Review Forms that were submitted to the district for this title. Those forms speak for themselves. Deny any remaining allegations.

99. *The Perks of Being a Wallflower* is a semi-autobiographical young-adult novel by Stephen Chbosky about a freshman in high school. It addresses common teen struggles, such as drugs, sexuality, and mental illness, and chronicles the characters' personal growth. The book has been on the *New York Times* Bestseller list, and it was adapted into a PG-13 film starring Emma Watson in 2012. Before *The Perks of Being a Wallflower* was "temporarily suspended," it was available for students to peruse or check out in the Elizabeth High School library.

RESPONSE: Admit that before it was removed from circulation, this title was available to students in the Elizabeth High School library. Assuming it was not checked out, this title would have been available for students to browse or check out. To the extent this paragraph attempts to characterize or summarize the contents of the title, the book speaks for itself. Admit that this title is written by Stephen Chbosky. Deny any remaining allegations.

100. Parents who filled out the Board's forms about *The Perks of Being a Wallflower* disagreed as to whether it should be permanently banned or returned to ESD libraries. Some Elizabeth parents objected to the book's inclusion in the high school library, saying it contains abuse, drugs, abortion, and gay sexual relationships. Others asserted that the book contains no information of concern in the context of an educational institution, and, as with the rest of the Removed Books, that it "ha[s] meaningful messages to be considered beyond a few pages."

RESPONSE: This paragraph purports to quote or summarize the Book Review Forms that were submitted to the district for this title. Those forms speak for themselves. Deny any remaining allegations.

101. *Thirteen Reasons Why* by Jay Asher follows a high school student, Clay Jensen, whose classmate, Hannah Baker, died by suicide. Throughout the novel, Clay learns more about Hannah and himself as he listens to tapes Hannah left explaining why she took her own life. At an August 26 Board meeting, President Olsen explained that the reason *Thirteen Reasons Why* was "temporarily suspended" is that "it's putting ideas into kids' heads." Before *Thirteen Reasons Why* was "temporarily suspended," it was available for students to peruse or check out in the Elizabeth Middle School library and the Elizabeth High School library.

RESPONSE: Admit that before it was removed from circulation, this title was available to students in the Elizabeth Middle School library and the Elizabeth High School library. Assuming it was not checked out, this title would have been available for students to browse or check out. To the extent this paragraph attempts to characterize or summarize the contents of the title, the book speaks for itself. To the extent this paragraph attempts to partially quote or summarize written or recorded statements made by individual School Board members, those statements speak for themselves. Admit that this title is written by Jay Asher. Deny any remaining allegations.

102. Parents who filled out the Board's forms about *Thirteen Reasons Why* disagreed as to whether it should be permanently banned or returned to ESD libraries. One high school parent wrote that *13 Reasons Why* is "just porn" that "[e]ven adults shouldn't read." He indicated that reading the book "would be soul murder to a child." Another parent wrote that the book has "morally offensive content for most religious people." Another wrote "Childhood is hard enough, shouldn't give kids ideas surrounding suicide." On the other hand, some parents wished to return it to the library because it "is a prime example of a book that could be a conversation starter + open lines of communication between parents + their children."

RESPONSE: This paragraph purports to quote or summarize the Book Review Forms that were submitted to the district for this title. Those forms speak for themselves. Deny any remaining allegations.

103. *Looking for Alaska* is Guild member John Green's first novel. It is a fictionalized account of the author's time at boarding school. The book is about Miles Halter, a teenage boy who goes to boarding school in his junior year and whose first love dies. The book explores how Miles and his friends process their grief during high school. *Looking for Alaska* was awarded the American Library Association's Michael L. Printz award and was the *Los Angeles Times* Book Prize finalist. It has also been selected for lists including NPR's "Top Ten Best-Ever Teen Novels" and *TIME* magazine's "100 Best Young Adult Novels of All Time." Before *Looking for Alaska* was "temporarily suspended," it was available for students to peruse or check out in the Elizabeth High School library.

RESPONSE: Admit that before it was removed from circulation, this title was available to students in the Elizabeth High School library. Assuming it was not checked out, this title would have been available for students to browse or check out. To the extent this paragraph attempts to characterize or summarize the contents of the title, the book speaks for itself. Admit that this title is written by John Green. The District is without knowledge or information sufficient to form a belief as to the truth of the allegations regarding John Green's Guild membership, and on that basis denies the same. Deny any remaining allegations.

104. *Looking for Alaska* expresses Mr. Green's viewpoints on loss, grief, and intimacy. When *Looking for Alaska* is removed from school libraries, Mr. Green is unable to reach his target audience—adolescents who may be experiencing death and grief for

the first time and need easy access to books like *Looking for Alaska* to help them process their feelings.

RESPONSE: To the extent this paragraph attempts to characterize or summarize the contents of the title, the book speaks for itself. The District is without knowledge or information sufficient to form a belief as to the truth of the allegations regarding the author's viewpoints or his beliefs about how his book may help certain kinds of readers, and on that basis denies the same. Deny all remaining allegations.

105. Parents who filled out the Board's forms about *Looking for Alaska* disagreed as to whether it should be permanently banned or returned to ESD libraries. One parent of an elementary and high school student wrote that the book should be removed from school libraries because it is "Talking about school pranks gone wrong resulting in death" and discusses "teen drugs, alcohol, sex, etc." Another form says "People (teens) in pain can read this story and find a place for themselves, because of the unhappy ending they will maybe find a way to reach out for help."

RESPONSE: This paragraph purports to quote or summarize the Book Review Forms that were submitted to the district for this title. Those forms speak for themselves. Deny any remaining allegations.

106. *Nineteen Minutes* by Guild member Jodi Picoult was a 2007 bestseller about a school shooting. One of the characters is bullied with words like "homo" and "fag," leading him to question his sexual orientation. The author has heard from hundreds of teenagers who say *Nineteen Minutes* made them realize that not intervening to stop bullying can be as bad as bullying itself. She has even heard from teenagers who say that *Nineteen Minutes* is what motivated them to stay alive, because it made them realize they were not alone. Before *Nineteen Minutes* was "temporarily suspended," it was available for students to peruse or check out in the Elizabeth High School library.

RESPONSE: Admit that before it was removed from circulation, this title was available to students in the Elizabeth High School library. This title was never checked out. To the extent this paragraph attempts to characterize or summarize the contents of the title, the book speaks for itself. Admit that this title is written by Jodi Picoult. The District is without knowledge or information sufficient to form a belief as to the truth of the allegations regarding Jodi Picoult's Guild membership

or the communications she has supposedly received from teenagers, and on that basis denies the same. Deny any remaining allegations.

107. *Nineteen Minutes* reflects Jodi Picoult’s viewpoint on bullying, marginalization, and the drastic consequences of children feeling “othered” by their school community. Ms. Picoult writes in order to make young adults feel seen. School libraries are critical to her ability to share her work with the teenagers she writes for. When *Nineteen Minutes* is removed from school libraries, Ms. Picoult is unable to reach her target audience—teenagers whose friends or family may have lived through school shootings, and who can make their schools safer by standing up to bullies.

RESPONSE: To the extent this paragraph attempts to characterize or summarize the contents of the title, the book speaks for itself. The District is without knowledge or information sufficient to form a belief as to the truth of the allegations regarding the author’s viewpoints, why the author writes, and her beliefs about how this title may help certain kinds of readers, and on that basis denies the same. Deny all remaining allegations.

108. Parents who filled out the Board’s forms about *Nineteen Minutes* disagreed as to whether it should be permanently banned or returned to ESD libraries. One form on *Nineteen Minutes* indicates that “[e]very bad suggestion is in this book – LGBTQ, killing, bestiality, etc.” Other forms indicated no concern with students’ access to the book.

RESPONSE: This paragraph purports to quote or summarize the Book Review Forms that were submitted to the district for this title. Those forms speak for themselves. Deny any remaining allegations.

109. *Crank, Glass, Fallout, Identical, Burned, and Smoke* by Guild member Ellen Hopkins are young-adult novels written in verse. They address teenage struggles including the perils of addiction, sexual desires, and abuse and express the author’s viewpoints on these topics. Before these books were “temporarily suspended,” they were available for students to peruse or check out in the Elizabeth High School library.

RESPONSE: Admit that before they were removed from circulation, these titles were available to students in the Elizabeth High School library. Two of these titles were never checked out. To the extent this paragraph attempts to characterize or summarize the contents of the titles, the books speak for themselves. Admit that these titles are written by Ellen Hopkins. The District is without knowledge or

information sufficient to form a belief as to the truth of the allegations regarding Ellen Hopkins's Guild membership, and on that basis denies the same. Deny any remaining allegations

110. When Ellen Hopkins' books are removed from school libraries, she is unable to reach her target audience—teenagers who are on the brink of making dangerous choices and need an easy-to-read cautionary tale.

RESPONSE: The District is without knowledge or information sufficient to form a belief as to the truth of the allegations regarding the author's target audience and her beliefs about how her works help certain kinds of readers, and on that basis denies the same. Deny all remaining allegations.

111. Parents who filled out the Board's forms about Ellen Hopkins' books disagreed as to whether they should be permanently banned or returned to ESD libraries. One parent wrote Ellen Hopkins' books should be banned because "This author loves sex + drugs." Another wrote that "Ellen Hopkins is disgusting" and called her a pervert. But another parent wrote, referencing Crank, that "[b]ecause this book is written in free verse it is a great pick for reluctant readers," and the book can serve as a "cautionary tale." Ellen Hopkins herself continuously receives communications about how her books have helped teenagers navigate difficult situations and avoid going down dangerous paths.

RESPONSE: This paragraph purports to quote or summarize the Book Review Forms that were submitted to the District for this title. Those forms speak for themselves. The District is without knowledge or information sufficient to form a belief as to the truth of the allegations about what communications Ellen Hopkins receives, and on that basis denies the same. Deny any remaining allegations.

112. Authors who are members of Plaintiff Guild fear that other districts will copy ESD and remove their books from their school library shelves because of their disagreement with the ideas they contain.

RESPONSE: The District is without knowledge or information sufficient to form a belief as to the truth of these allegations, and on that basis denies the same.

113. The Board has stigmatized each of the Removed Books, the ideas contained therein, and their authors.

RESPONSE: Deny. The District states that the 18 titles the School Board voted to permanently remove represented works written by 13 different authors. Of those authors, seven still have one or more titles in the District's library collections. The District further states that its library collections contain numerous works that explicitly portray LGBTQ characters, provide LGBTQ personal narratives/testimonials, include content related to LGBTQ history and identifies, address issues related to racism, provide historical accounts of racism, and provide diverse views on the African American perspective in America.

114. Plaintiff E.S.'s parent does not want her son to be deprived of access to books just because the school board disagrees with the ideas in the books. By banning these books, the District is sending the message that it is not okay to learn about LGBTQ+ identities and same-sex relationships or race and racism. This creates an unwelcome and unsafe environment in Plaintiff E.S.'s school.

RESPONSE: The District is without knowledge or information sufficient to form a belief as to the truth of the allegations regarding Plaintiff E.S.'s parent and what she wants and thinks, and on that basis denies the same. Deny all remaining allegations.

115. Some parents noticed that the list of Removed Books appears targeted at books involving LGBTQ+ and/or Black characters and authors. One form notes, "This book list . . . is not welcoming to anyone who is not white, straight and politically conservative." Another notes that banning *You Should See Me in a Crown*, *It's Your World—If You Don't Like It, Change It*, *#Pride: Championing LGBTQ Rights*, Toni Morrison's *Beloved* and *The Bluest Eye*, and *Melissa/George* "is a clear and transparent assertion that people of color, women and homosexuals are less welcome in our public school and this is unacceptable." Many parents who reviewed the Removed Books recognized that it does a disservice to children to deny them access to books in the school library that could broaden their perspective and help them develop empathy.

RESPONSE: The District is without knowledge or information sufficient to form a belief as to the truth of the allegations about what some parents supposedly noticed or recognized about the books on the Temporarily Suspended List, and on

that basis denies the same. To the extent this paragraph partially quotes or summarizes Book Review Forms, those forms speak for themselves. Deny all remaining allegations.

116. When a parent criticized the Board for removing books from school libraries, Vice President Booth responded, “[a]s an elected official committed to conservative values for our children, I feel a strong obligation to honor the promises made during my campaign.” Other Board members have similarly expressed that the books must be removed from school libraries because they believe their constituents would not like the ideas in the books.

RESPONSE: To the extent this paragraph partially quotes a written or recorded statement by former School Board member Heather Booth, that statement speaks for itself. Admit that the School Board considered feedback from the community, among other things, in deciding to permanently remove the 18 titles that had been made available for public review. Deny any remaining allegations.

117. Indeed, many Elizabeth parents believe that removing books from school libraries is a good way to prevent perceived liberal ideology from seeping into Elizabeth schools. Some of these parents have spoken out at public meetings, saying that people are “criminals” for letting kids read certain books.

RESPONSE: The District is without knowledge or information sufficient to form a belief as to the truth of the allegations about what unidentified Elizabeth parents believe, and on that basis denies the same. To the extent this paragraph purports to partially quote or summarize statements made by parents at School Board meetings, those statements speak for themselves. Deny any remaining allegations.

118. Many parents who opposed the Board’s removal of books from their children’s school libraries did not fill out forms for the Board because they believed the Board would ignore any feedback with which they disagreed and/or feared retaliation for expressing disagreement with the Board’s disdain for the Removed Books.

RESPONSE: The District is without knowledge or information sufficient to form a belief as to the truth of these allegations, and on that basis denies the same.

119. None of the removed books were required reading for any student in the District. Students and parents can opt out of reading any of the books available in ESD libraries.

RESPONSE: Admit that none of the 18 titles that the School Board voted to permanently remove from the District's library collections were required reading for any classroom or student in the District for the 2024–25 school year. Admit that parents can opt out their children from checking out books from the school library that are listed on the Sensitive Topics List, from checking out specific books in a classroom library, and from reading books that are required as part of the classroom curriculum. Further admit that students can effectively opt out of reading books in their school library by not browsing or checking out those books. Deny any remaining allegations.

**Response to “Factual Background – Permanent Removal of Books
from Library”**

120. In deciding whether to permanently ban or return the Removed Books to ESD libraries, Board members considered community members' reaction to the Removed Books, as well as the books' inclusion of same-sex relationships, discussion of LGBTQ+ identities, attitudes towards racism, and views on issues like racism, police violence, and parents' rights.

RESPONSE: Admit that four School Board members voted to permanently remove the 18 titles that had been made available for public display. Further admit that these School Board members had a variety of reasons for voting in favor of removal, including lack of educational value, lack of age appropriateness, vulgar or profane content, excessive violence or sexual content, and parental support for removal. Deny all remaining allegations.

121. Board remembers did not read each book in full before deciding whether or not to return it to ESD libraries.

RESPONSE: Admit that four School Board members voted to permanently remove the 18 titles that had been made available for public display and that each of those four members did not read the entirety of each of the 18 titles. Deny any remaining allegations.

122. Board members waffled on their decisions about whether some of the books should be returned to the libraries or kept out permanently. For example, Secretary Powell initially advocated to return *#Pride - Championing LGBTQ Rights* to the library “because this book is largely a history of LGBTQ, and doesn’t totally try to indoctrinate.” She explained to the other Board members that she “also thought it would be a good thing to show some openness to other viewpoints, as long as it isn’t indoctrinating.” But Vice President Booth responded that “LGBTQ is only regarding sexual preference which doesn’t belong in any school,” and “[o]ur constituents will not be happy about us returning any of these books.” Secretary Powell was also convinced by President Olsen’s point that the book has “gender identity ideology in [it], and do we really want that out there at all?” In order to banish discussion of LGBTQ+ identities from Elizabeth school libraries, all Board members ultimately decided that *#Pride - Championing LGBTQ Rights* should be permanently removed from ESD libraries.

RESPONSE: Admit that four School Board members voted to permanently remove the 18 titles that had been made available for public display. Admit that those members carefully considered each of the 18 titles before voting to permanently review them, including by debating specific titles. To this extent this paragraph purports to partially quote or summarize written or recorded statements by individual School Board members, those statements speak for themselves. Additionally, the District rejects Plaintiffs’ misuse of the term “banish.” Students remain free to access removed titles through other means (public libraries, private purchase, etc.) and to bring those books on campus. Deny all remaining allegations.

123. Secretary Powell also initially voted to return *You Should See Me in a Crown* to the library because, “while it has some racist overtones, they are just the main character handling them.” Powell stated that, while “halfway through you find out she is a lesbian[,] . . . there isn’t anything graphic other than discussing a kiss that I saw, and it is not the central theme of the book at all.” Board members Waller and Calahan initially agreed with Powell. But again, after Vice President Booth expressed her view that LGBTQ+ content should not be available to any student in school, all Board members decided that they should permanently remove *You Should See Me in a Crown* from ESD libraries.

RESPONSE: Admit that four School Board members voted to permanently remove the 18 titles that had been made available for public display. Admit that those members carefully considered each of the 18 titles before voting to permanently review them, including by debating specific titles. To this extent this

paragraph purports to partially quote or summarize written or recorded statements by individual School Board members, those statements speak for themselves. Deny all remaining allegations.

124. Board members have also referred to multiple Removed Books as “disgusting.” President Olsen expressed that she “wouldn’t care” if reading *The Bluest Eye* made children better readers, because it was a disgusting book.

RESPONSE: This paragraph purports to partially quote or summarize certain out-of-context written or recorded statements by individual School Board members. The School Board members’ entire statements speak for themselves. Deny all remaining allegations.

125. Secretary Powell stated that students “don’t need to see an ugly story just for the sake of being an ugly story.”

RESPONSE: This paragraph purports to partially quote or summarize certain out-of-context written or recorded statements by individual School Board members. The School Board members’ entire statements speak for themselves. Deny all remaining allegations.

126. Ultimately, all Board members voted to permanently banish all Removed Books from ESD libraries because of the ideas they contain.

RESPONSE: Deny. Additionally, the District rejects Plaintiffs’ misuse of the term “banish.” Students remain free to access removed titles through other means (public libraries, private purchase, etc.) and to bring those books on campus.

127. The Board announced its decision to permanently ban all Removed Books from ESD libraries at the September 9 Board meeting.

RESPONSE: Admit that four School Board members voted 4-0 at the September 9, 2024 School Board meeting to permanently remove from the District’s library collections the 18 titles that had been made available for public display. Deny all remaining allegations

128. The Board’s decision to prohibit students from accessing any of the Removed Books in ESD libraries prevented Plaintiff C.C., E.S, and NAACP members’

children from exploring and learning about topics and ideas that they otherwise would have—all because Board members disagree with those ideas.

RESPONSE: Deny.

129. The Board's decision to prohibit students from accessing any of the Removed Books in ESD libraries prevented members of the Guild from sharing their viewpoints with ESD students because the Board disagreed with them.

RESPONSE: Deny.

130. Plaintiffs believe it is important to have books available in school libraries that reflect a diversity of views and experiences so that all students can find books in the library that they relate to, and they can learn about different perspectives.

RESPONSE: The District is without knowledge or information sufficient to form a belief as to the truth of these allegations, and on that basis denies the same.

131. The Board's decision to prohibit students from accessing any of the Removed Books in ESD libraries created a stigma around each of the Removed Books and the ideas in them.

RESPONSE: Deny.

132. NAACP members' children and C.C. know that if they discuss any of the Removed Books or the ideas in them, they will be perceived as amoral and as outsiders in Elizabeth.

RESPONSE: The District is without knowledge or information sufficient to form a belief as to the truth of allegations regarding what Plaintiff C.C. and the NAACP members' children supposedly know, and on that basis denies the same. Deny that students are in any way prevented by the District from discussing the 18 titles that were permanently removed from the District's library collections. Deny any remaining allegations.

133. The Board's decision to prohibit students from accessing any of the Removed Books in ESD libraries signaled to C.C., E.S., and NAACP members' children that certain identities—particularly LGBTQ+ identities and racial minorities—are not welcome in Elizabeth.

RESPONSE: The District is without knowledge or information sufficient to form a belief as to the truth of allegations regarding how the School Board's decision to permanently remove 18 titles from the District's library collections was perceived by Plaintiff C.C., Plaintiff E.S., or the unidentified NAACP members' children, and on that basis denies the same. Deny that the School Board somehow speaks for the entire Elizabeth community. Deny all remaining allegations.

134. NAACP members' children are harmed by the stigma that the Board has placed on books by Black authors about Black characters.

RESPONSE: Deny.

135. By removing two books by Toni Morrison—one of the most famous and celebrated Black authors—and other books centering Black perspectives and experiences from the Elizabeth High School library, the Board indicated to Black students and other minority students that their own perspectives and experiences might be shameful or devalued.

RESPONSE: The District is without knowledge or information sufficient to form a belief as to the truth of allegations regarding how the School Board's decision to permanently remove 18 titles from the District's library collections was perceived by unidentified Black students and other unidentified minority students, and on that basis denies the same. Deny all remaining allegations.

136. Students, including children of NAACP members, who want to gain empathy and understanding of others' experiences and perspectives are harmed by the Board's removal of books from their school libraries, because they are limited to reading materials that promote the Board's preferred views.

RESPONSE: The District is without knowledge or information sufficient to form a belief as to the truth of allegations regarding the desires of unidentified students,

including unidentified students of NAACP members, and on that basis denies the same. Deny all remaining allegations.

137. Students, including children of NAACP members, who read as a means of understanding themselves and their identities, are harmed by the Board's removal of books from their school libraries, because they are inhibited from reading about experiences or identities that the Board deems objectionable.

RESPONSE: The District is without knowledge or information sufficient to form a belief as to the truth of allegations regarding the reasons that unidentified students, including unidentified students of NAACP members, read, and on that basis denies the same. Deny all remaining allegations.

138. As a sixteen-year-old girl navigating adolescence and preparing to leave Elizabeth for college, Plaintiff C.C. is harmed by the Board's enforcement of an orthodoxy that banishes books about LGBTQ+ history and identity.

RESPONSE: The District is without knowledge or information sufficient to form a belief as to the truth of allegations regarding Plaintiff C.C.'s future plans, and on that basis denies the same. Additionally, the District rejects Plaintiffs' misuse of the term "banish." Students remain free to access removed titles through other means (public libraries, private purchase, etc.) and to bring those books on campus. Further, the District states that its library collections, including the high-school library that Plaintiff C.C. has access to, contain many titles that address LGBTQ+ history and identity. Deny all remaining allegations.

139. Plaintiff C.C. participates in a school-sponsored book club that meets in the school library. When Plaintiff C.C. is waiting for the book club to start, she browses through the Elizabeth High School library collection. Plaintiff C.C.'s ability to discover different views and diverse authors while she is browsing is inhibited by the Board's removal of viewpoints and authors that they dislike.

RESPONSE: The District is without knowledge or information sufficient to form a belief as to the truth of allegations regarding Plaintiff C.C.'s library-browsing practices, and on that basis denies the same. Deny all remaining allegations.

140. Plaintiff C.C.'s mother wants C.C. to be able to read the Removed Books without incurring the stigma that the Board has placed on the books.

RESPONSE: The District is without knowledge or information sufficient to form a belief as to the truth of allegations regarding Plaintiff C.C.'s mother's desires, and on that basis denies the same. Deny all remaining allegations.

141. Plaintiff C.C.'s mother believes it is important for C.C. to be exposed to a wide variety of perspectives and viewpoints in her school library so that she will be prepared to participate in modern society.

RESPONSE: The District is without knowledge or information sufficient to form a belief as to the truth of allegations regarding Plaintiff C.C.'s mother's beliefs, and on that basis denies the same. Deny any remaining allegations.

142. Because of the Board's decisions, Plaintiff C.C.'s mother fears being publicly shamed or accused of bad parenting if she allows C.C. to read the Removed Books.

RESPONSE: The District is without knowledge or information sufficient to form a belief as to the truth of allegations regarding Plaintiff C.C.'s mother's fears, and on that basis denies the same. Deny all remaining allegations.

143. Plaintiff E.S. uses the Running Creek Elementary school library, and he will continue to use the Running Creek Elementary school library as he gets older.

RESPONSE: The District is without knowledge or information sufficient to form a belief as to the truth of allegations regarding Plaintiff E.S.'s current use of the Running Creek Elementary School library or his supposed future plans to use that library as he gets older, and on that basis denies the same. Deny that pre-school students can browse or check out materials from the district's elementary-school libraries. Deny any remaining allegations.

144. It is important to E.S. and his family that the children have access to a diverse array of reading materials so that they grow up to understand the value in many different ideas and viewpoints. E.S.'s mother does not want E.S. to be deprived of access to books just because his school board—or other parents in our district—disagree with the ideas in those books.

RESPONSE: The District is without knowledge or information sufficient to form a belief as to the truth of allegations regarding what is important to Plaintiff E.S. and his family, and what Plaintiff E.S.'s mother wants for E.S., and on that basis denies the same. Deny all remaining allegations.

145. E.S.'s mother does not want E.S. to be educated in an environment where LGBTQ+ people and people of color are stigmatized. She wants him to learn about all different identities, experiences, and lifestyles and to feel free to discuss differing viewpoints and explore challenging ideas.

RESPONSE: The District is without knowledge or information sufficient to form a belief as to the truth of allegations regarding what Plaintiff E.S.'s mother wants for E.S., and on that basis denies the same. Deny all remaining allegations.

146. Parent members of the NAACP want their children to be able to read the Removed Books without incurring the stigma that the Board has placed on the books.

RESPONSE: The District is without knowledge or information sufficient to form a belief as to the truth of allegations regarding what unidentified parent members of the NAACP want for their children, and on that basis denies the same. Deny all remaining allegations.

147. Parent members of NAACP believe it is important for their children to be exposed to a wide variety of perspectives and viewpoints in their school libraries so that they will be prepared to participate in modern society.

RESPONSE: The District is without knowledge or information sufficient to form a belief as to the truth of allegations regarding what unidentified parent members of the NAACP believe, and on that basis denies the same. Deny all remaining allegations.

148. Because of the Board's decisions, parent members of the NAACP fear being publicly shamed or accused of bad parenting if they allow their children to read the Removed Books.

RESPONSE: The District is without knowledge or information sufficient to form a belief as to the truth of allegations regarding what unidentified parent members of

the NAACP fear, and on that basis denies the same. Deny all remaining allegations.

149. The Board's process of reviewing and removing books is ongoing.

RESPONSE: The District admits that the Library Protocols remain in place. The District intends to comply with the processes outlined in the Library Protocols in reviewing library books in the future. Deny all remaining allegations.

150. In addition to the removal of books as described above, on at least one occasion, the Board removed a library book upon receiving a parent complaint.

RESPONSE: Admit that in September 2024, a parent expressed concern about *Redwood and Ponytail* by K.A. Holt, a book that his child had checked out from the Running Creek Elementary School library, and suggested that the book be added to the Sensitive Topics List and reviewed by the Curriculum Committee because the book's content was inappropriate for elementary-school students. Admit that in response, the School Board's president had the physical book held for further review once it was returned to the library. Further admit the book has been returned to the shelves of the Running Creek Elementary School library and will remain there pending the School Board's review of that book. Deny all remaining allegations.

151. On September 5, 2024, President Olsen received an email complaining about a book from the library at Running Creek Elementary, *Redwood and Ponytail* by K.A. Holt. The email included the following excerpt from the inside cover: "K.A. Holt delivers an emotional wallop in this novel in verse about two girls discovering their feelings for each other... Sometimes you know who you're meant to be with before you know who you're meant to be." The email also included the following excerpts from the end of the book:

Hours go by. We talk about moms, and Jill, and Levi. About plans and lack thereof and impulse control. We talk about holding hands and what that means and maybe it means nothing or maybe it means everything. We talk about that forbidden word, the tiny word, that fills both our heads, and how we'll figure out our words one day all on our own. We need our own word, you know? A phrase just for us.

Because you're not my best friend, or my best girl, or my girl-friend, or my whole world, you're something even bigger, Kate. Bigger than just one word."

"She's my winning point. She's my summer day. She's my sneaky wink. She's my light. She's my heart. She's my Kate. I'm her Tam. Together we're everything."

"She's my cheering crowd. She's my laugh out loud. She's my secret smile. She's my light. She's my heart. She's my Tam. I'm her Kate. Together we're everything."

RESPONSE: Admit that in September 2024, a parent expressed concern about *Redwood and Ponytail* by K.A. Holt, a book that his child had checked out from the Running Creek Elementary School library, and suggested that the book be added to the Sensitive Topics List and reviewed by the Curriculum Committee because the book's content was inappropriate for elementary-school students. To the extent this paragraph purports to partially quote or summarize the email sent by the concerned parent, that document speaks for itself. Deny any remaining allegations.

152. The email complaining about *Redwood and Ponytail* also included an excerpt from a review site, [KirkusReviews.com](https://www.kirkusreviews.com):

Tam is a volleyball player sometimes mistaken for a boy. Kate is a popular cheerleader. When they notice each other at seventh grade registration, Tam sees a walking cliché with a perfect ponytail, while Kate sees a girl as "tall as a palm tree." When they meet face to face, they strike an immediate rapport. Soon the two are having lunch together every day and linking pinkies in the halls. As they grow closer, each finds herself questioning who she thought she was. Tam doesn't know how she fits into Kate's seemingly perfect world. Kate, who has spent her life trying to live up to her shallow, perfectionist mother's expectations, wants to go her own way, a process that includes deciding whether or not to admit her feelings for Tam. Tam and Kate share the first-person narration, which keenly conveys each girl's joys and

inner turmoil. The dual narratives play off of each other, sometimes in a call-and-response manner that clearly communicates the shyness, awkwardness, and confusion of first love. A trio of unseen watchers, identified as Alex, Alyx, and Alexx, collectively represent the observant school-hallway bystanders, providing commentary and speculation in the manner of a Greek chorus. Their verses can be read vertically or horizontally, resulting in multiple meanings. Characters are racially ambiguous. A glowing, heartfelt addition to the middle-grade LGBTQ genre. (Fiction. 8-14)

RESPONSE: This paragraph purports to partially quote or summarize the email sent by the concerned parent. That document speaks for itself. Deny any remaining allegations.

153. Less than an hour after receiving the email complaining about *Redwood and Ponytail*, President Olsen responded to the parent saying she would have the book removed.

RESPONSE: Admit that in response to the parent's concern about *Redwood and Ponytail*, the School Board's president had the physical book held for further review once it was returned to the library. To the extent this paragraph purports to characterize or summarize an email, that document speaks for itself. Deny any remaining allegations.

154. The Board thereafter removed *Redwood and Ponytail* from the Running Creek Elementary library.

RESPONSE: Admit that in response to the parent's concern about *Redwood and Ponytail*, the School Board's president had the physical book held for further review once it was returned to the library. Further admit the book has been returned to the shelves of Running Creek Elementary Library and will remain there pending the School Board's review of that book. Deny any remaining allegations.

155. NAACP members' children are harmed by the removal of *Redwood and Ponytail* from the Running Creek Elementary library, because they can no longer access the ideas explored in the book.

RESPONSE: Deny.

156. Parent members of the NAACP want their students to be able to access Redwood and Ponytail from their school library.

RESPONSE: The District is without knowledge or information sufficient to form a belief as to the truth of these allegations, and on that basis denies the same.

157. The Board has directed ESD librarians not to order any new books for school libraries.

RESPONSE: Admit that the School Board has adopted the Library Protocols, which outline the process by which new titles for the District's library collections should be purchased. The Library Protocols speak for themselves. Deny all remaining allegations.

158. The Board's decision to remove books from ESD libraries caused some Elizabeth families to send their kids to schools outside of ESD.

RESPONSE: The District is without knowledge or information sufficient to form a belief as to the truth of these allegations, and on that basis denies the same.

Response to "Factual Background – Restrictions on Classroom Libraries"

159. The Board's purge of books by and about people of color and LGBTQ+ people is not limited to school libraries.

RESPONSE: Deny.

160. On August 12, 2024, the Board voted to adopt Policy 9.9, which directs that "no classroom libraries of books are maintain[ed] within the Elizabeth School District."

RESPONSE: Admit that on August 12, 2024, the School Board approved the Classroom Library Direction, which directed that no classroom libraries of books be maintained within district classrooms. To the extent this paragraph purports to

partially quote a document, the document speaks for itself. Deny all remaining allegations.

161. Classroom libraries are collections of books in individual classrooms that students access during free time or designated reading times. For example, a student who finishes a test early is often allowed to choose a book from the classroom library to read while the other students finish their tests.

RESPONSE: Admit that classroom libraries are collections of books in individual classrooms at the elementary-school and middle-school levels. High-school classrooms do not have designated libraries for student use. Admit that in the past, classroom libraries were not systematically cataloged or reviewed for age-group appropriateness. Admit that teachers with classroom libraries may allow students to access books in their libraries at designated times. Deny any remaining allegations.

162. Most classroom libraries are created by teachers themselves. Many teachers spend their own money to buy books for their classrooms or get donations from other teachers.

RESPONSE: Admit that some classroom libraries are curated by teachers providing their own books and some are curated by teachers checking out books from a school library. Further admit that some teachers may purchase books for their classroom libraries with their own money or receive book donations. Deny any remaining allegations.

163. The Directive to remove classroom libraries was intended to cover only books that are not used in classroom instruction.

RESPONSE: Admit.

164. Per the Board's direction to remove classroom libraries, some ESD teachers covered their classroom libraries with brown paper; others brought their classroom library books home.

RESPONSE: Admit that after the School Board approved the Classroom Library Direction some elementary-school and middle-school teachers temporarily removed some or all of the books in their classroom libraries, and some posted

signs that the books in their classroom libraries were off limits. Deny all remaining allegations.

165. Shortly after voting to ban classroom libraries, after much community criticism, the Board admitted their decision was made too quickly and paused the ban.

RESPONSE: Admit that the School Board paused the Classroom Library Directive after learning that, contrary to its understanding, elementary-school and middle-school teachers had not been notified of the directive in advance of the School Board's August 12, 2024 meeting. Admit that the School Board was concerned by this gap in communication, and by the response from teachers, so it paused the directive and solicited teacher feedback on how to best move forward. Deny all remaining allegations.

166. While the classroom library ban was paused, Superintendent Snowberger and the Board asked ESD staff for feedback on how to ensure classroom libraries did not contain "sensitive" books. After receiving staff feedback, Superintendent Snowberger chastised some staff members for providing "harsh feedback to the Board on their decision." Some of the feedback resulted in disciplinary action.

RESPONSE: Admit that the School Board paused the Classroom Library Directive and solicited teacher feedback. To the extent this paragraph purports to partially quote or characterize district communications soliciting such feedback, those documents speak for themselves. Admit that some staff provided feedback that was not solutions-focused and that was communicated in an unprofessional manner. To the extent this paragraph purports to quote Mr. Snowberger's characterization of staff feedback, that document speaks for itself. To the extent this paragraph contains allegations that may reveal the identity of particular staff members who are not parties to this action, the District declines to comment on such allegations or related personnel matters. Deny all remaining allegations.

167. On August 20, Superintendent Snowberger informed Elizabeth staff that they could open their classroom libraries back up while the Board deliberated on how to proceed. By that point, many teachers had already taken all of their books home in response to the ban.

RESPONSE: Admit that on or about August 20, 2024, Mr. Snowberger informed elementary-school and middle-school teachers that they could make their classroom libraries available to students while the School Board determined next steps. Admit that some teachers had removed some or all of their classroom-library books by that time. Deny any remaining allegations.

168. On August 26, the Board determined that teachers should create inventories of all the books in their classroom libraries so that the BCRC could review them and the District could determine which ones were in keeping with the Board's partisan, political preferences, and which one needed to be removed.

RESPONSE: Admit that at its August 26, 2024 meeting, the School Board determined that elementary-school and middle-school teachers should create inventories of their classroom libraries. Deny all remaining allegations.

169. Superintendent Snowberger assured parents that classroom libraries would be purged of any books containing racism/discrimination, drug or alcohol use, graphic violence, sexual content, ideations of self harm, or religious content." [sic]

RESPONSE: Admit that the review of classroom libraries included consideration of the same sensitive topics outlined in the Library Protocols. To the extent this paragraph attempts to partially quote or characterize a communication from Mr. Snowberger to parents, that document speaks for itself. Deny any remaining allegations.

170. In the process of reviewing their classroom libraries, teachers were expected to remove questionable books. Some teachers removed books out of fear or anticipation that the Board would direct their removal.

RESPONSE: Admit that teachers were expected to independently evaluate the titles in their classroom library collections during the inventory process. The District is without knowledge or information sufficient to form a belief as to the truth of allegations regarding what unidentified teachers supposedly feared, and on that basis denies the same. Deny all remaining allegations.

171. The Board also directed teachers not to purchase any more books for their classroom libraries.

RESPONSE: Admit that the School Board has adopted the Library Protocols, which outline the process by which the District will purchase new titles, including new titles that teachers wish to purchase for their classroom libraries. The Library Protocols speak for themselves. Further admit that the District wants to shift away from teachers having to spend their own money on books. Deny any remaining allegations.

172. Teachers' inventory lists were passed on to principals, who passed them on to the Board for review. The Board then directed principals to ensure that certain books were removed from classroom libraries.

RESPONSE: Admit that teachers' inventories were collected by principals and that principals facilitated removal of the handful of titles that were identified as containing material that related to sensitive topics or that was not age appropriate for the specific grade level where they were located. Deny all remaining allegations.

173. The Board directed that several books be removed from classroom libraries. One Running Creek teacher was initially told he was required to remove *The Slave Dancer* by Paula Fox; *To Be a Slave* by Julius Lester; *The Cay* by Theodore Taylor; *The Giver* by Lois Lowry; and *Lawn Boy* by Gary Paulson from his classroom library.

RESPONSE: Admit that a handful of titles were identified for removal from a few elementary-school and middle-school classroom libraries because they contained material that related to sensitive topics or that was not age appropriate for the specific grade level where they were located. To the extent this paragraph contains allegations that may reveal the identity of a particular teacher who is not a party to this action, the District declines to comment on such allegations or related personnel matters. Deny all remaining allegations.

174. *The Slave Dancer* by Paula Fox is about a teenager who is thrown aboard a slave ship and witnesses how enslaved people were being treated. Its removal is further evidence of the District's intent to restrict access to information and ideas with which it disagrees.

RESPONSE: Admit that Paula Fox is the author of the listed title. To the extent that this paragraph purports to characterize or summarize the contents of the title, the book speaks for itself. Deny all remaining allegations.

175. *To Be a Slave* by Julius Lester is a nonfiction children's book that includes personal accounts of former slaves. It has won several awards, including the John Newbery Medal and School Library Journal's Best Book of the Year. Its removal is further evidence of the District's intent to restrict access to information and ideas with which it disagrees.

RESPONSE: Admit that Julius Lester is the author of the listed title. To the extent that this paragraph purports to characterize or summarize the contents of the title, the book speaks for itself. Deny all remaining allegations.

176. *The Cay* by Theodore Taylor is about a young white boy, Phillip, and his new companion, Timothy, a Black man who rescues Phillip from the ocean. Phillip initially views Timothy as inferior, but over the course of the story, they develop a friendship. Its removal is further evidence of the District's intent to restrict access to information and ideas with which it disagrees.

RESPONSE: Admit that Theodore Taylor is the author of the listed title. To the extent that this paragraph purports to characterize or summarize the contents of the title, the book speaks for itself. Deny all remaining allegations.

177. *The Giver* by Lois Lowry is a young adult novel about an eleven-year-old boy who lives in a society where everyone is equal, but there is no individualism, emotion, or color. The Giver has won the Newbery Medal and the William Allen White Children's Book Award, among several others. Its removal is further evidence of the District's intent to restrict access to information and ideas with which it disagrees.

RESPONSE: Admit that Lois Lowry is the author of the listed title. To the extent that this paragraph purports to characterize or summarize the contents of the title, the book speaks for itself. Deny all remaining allegations.

178. *Lawn Boy* by Gary Paulson is about a boy who mows lawns after his grandmother gives him a lawnmower for his birthday. It includes chapters like "The Growth of Capitalism," "Dramatic Economic Expansion: Its Causes and Effects," and "Conflict Resolution and Its Effects on Economic Policy." It shares its name with *Lawn Boy* by Jonathan Evison, a different book that has been frequently challenged and banned across the country. The teacher was ultimately allowed to keep this book in his classroom library, but not the others.

RESPONSE: Admit that Gary Paulson is the author of the listed title, and that a different author has a work with the exact same title. To the extent that this paragraph purports to characterize or summarize the contents of the title by each of the authors, those books speak for themselves. Admit that *Lawn Boy* by Gary Paulson was initially flagged for removal from classroom libraries by mistake. Deny any remaining allegations.

179. The Running Creek teacher refused to remove any books from his classroom library, because he believed they were educationally valuable for his students. He was threatened with dismissal on insubordination grounds and quit his job because he was not willing to remove the books.

RESPONSE: To the extent this paragraph contains allegations that may reveal the identity of a particular teacher who is not a party to this action, the District declines to comment on such allegations or related personnel matters. Further, the District is without knowledge or information sufficient to form a belief as to the truth of the allegations about this teacher's supposed beliefs or reasons for taking the actions alleged in this paragraph, and on that basis denies the same. Deny all remaining allegations.

Response to “Factual Background – Ban on Sharing Books”

180. Policy 9.9, which the Board adopted on August 12, provides: “Books will not be shared between students.”

RESPONSE: Admit that the School Board approved the Classroom Library Directive at its August 12, 2024 meeting. This paragraph purports to partially quote that document, which speaks for itself.

181. Current policy in the District dictates that students are not permitted to share books with each other.

RESPONSE: Admit that students in the District are not permitted to physically share books with each other while at school. Deny all remaining allegations.

182. Superintendent Snowberger informed parents that the ban on sharing books in the classroom was enacted “to respect parental rights in ensuring that they control what literature students have access to.”

RESPONSE: Admit that Mr. Snowberger has communicated with parents regarding the District's rule against students physically sharing books with each other. To the extent this paragraph purports to partially quote a written or recorded communication, that communication speaks for itself. Deny all remaining allegations.

183. NAACP members' children commonly share books with other students. They recommend and provide books to other students as a way of expressing their interest in particular books or topics. Students can then share the experience of reading the book and discussing it together.

RESPONSE: The District is without knowledge or information sufficient to form a belief as to the truth of allegations regarding the book-sharing practices of unidentified NAACP members' children and their supposed reasons for engaging in such practices, and on that basis denies the same. Deny that students in the District are prevented by the District from sharing the experience of reading the same titles and discussing them. Deny any remaining allegations.

184. NAACP members' children receive books from other students as a means of accessing information and ideas that their friends or classmates suggest to them.

RESPONSE: The District is without knowledge or information sufficient to form a belief as to the truth of allegations regarding the book-sharing practices of unidentified NAACP members' children and their supposed reasons for engaging in such practices, and on that basis denies the same. Deny that students in the District are prevented by the District from sharing books outside of school. Deny any remaining allegations

185. Plaintiff C.C. commonly shares books with other students. As an avid reader, she has opinions on many different authors and stories, and she enjoys being able to discuss them with her classmates. Plaintiff C.C. learns more about her classmates and herself when they share books with each other and discuss what stood out to them, which parts they liked, etc.

RESPONSE: The District is without knowledge or information sufficient to form a belief as to the truth of these allegations, and on that basis denies the same. Further, to the extent this paragraph suggests Plaintiff C.C. is prevented by the

District from discussing the 18 titles that were permanently removed from the District's library collections, the District denies that students are prevented from discussing those titles at school or from bringing their own copies of those titles on campus. Deny any remaining allegations.

186. As the Board makes fewer and fewer books available in school libraries, Plaintiff C.C. and NAACP members' children perceive a heightened need to share books with each other.

RESPONSE: The District is without knowledge or information sufficient to form a belief as to the truth of allegations regarding Plaintiff C.C.'s and the unidentified NAACP members' children's perceptions, and on that basis denies the same. Deny that the 18 titles that the School Board voted to permanently remove from the specific District library locations had a material impact on students' access to library content. Deny any remaining allegations.

**Response to "Causes of Action – First Claim for Relief
42 U.S.C. § 1983 – First Amendment
Right to Receive Information**

*Plaintiffs NAACP, C.C. by and through Kristen Crookshanks, and E.S. by and through
Mindy Smith Against Defendant"*

187. The allegations of the foregoing paragraphs are incorporated by reference as though fully set forth herein.

RESPONSE: All responses to the foregoing paragraphs are incorporated by reference as though fully set forth herein.

188. The First Amendment binds the State of Colorado pursuant to the incorporation doctrine of the Fourteenth Amendment. In all of the following paragraphs, references to the First Amendment include the First Amendment as applied to the states through the Fourteenth Amendment.

RESPONSE: This paragraph contains legal conclusions or characterizations to which no response is required.

189. The First Amendment protects the right to access information and ideas. School boards are not permitted to remove books from school libraries in a narrowly partisan or political manner, or because of board members' disagreement with the ideas contained in the books.

RESPONSE: This paragraph contains legal conclusions or characterizations to which no response is required.

190. The Elizabeth School District, acting through its Board, removed at least nineteen books from ESD libraries in a narrowly partisan or political manner because the Board disagrees with the ideas or views contained in those books.

RESPONSE: Deny.

191. The Board continues to determine whether additional books should be removed from ESD libraries in order to deny students access to ideas that Board members dislike.

RESPONSE: Deny.

192. The Board's decision to remove books from ESD libraries was—and continues to be—motivated by their desire to suppress ideas that were not in keeping with Defendant's political values and ideas, and to prescribe their partisan, political orthodoxy in Elizabeth schools.

RESPONSE: Deny.

193. The Board has no substantial or legitimate interest in banning the Removed Books from ESD libraries.

RESPONSE: Deny.

194. None of the Removed Books are obscene.

RESPONSE: Deny.

195. The Removed Books were not interfering with order and discipline in ESD schools.

RESPONSE: Deny.

196. The Removed Books contain educational value and are educationally suitable for students in ESD schools.

RESPONSE: Deny.

197. Defendants' removal of books from ESD libraries interferes with the ability of Plaintiffs C.C., E.S., and NAACP members' children's ability to learn about a diversity of information and viewpoints.

RESPONSE: Deny.

198. Plaintiffs are entitled to monetary, declaratory, and injunctive relief for the Board's violation of their First Amendment rights.

RESPONSE: Deny.

**Response to Causes of Action – “Second Claim for Relief
Colo. Const. Art. II, Section 10
Freedom of Speech**

*Plaintiffs NAACP, C.C. by and through Kristen Crookshanks, and E.S. by and through
Mindy Smith Against Defendant”*

199. The allegations of the foregoing paragraphs are incorporated by reference as though fully set forth here.

RESPONSE: All responses to the foregoing paragraphs are incorporated by reference as though fully set forth herein.

200. The Free Speech Clause of the Colorado Constitution protects the right to access information and ideas.

RESPONSE: This paragraph contains legal conclusions or characterizations to which no response is required.

201. The free speech rights protected by Colo. Const. Art. II, Section 10 are more expansive than those protected by the First Amendment to the United States Constitution.

RESPONSE: This paragraph contains legal conclusions or characterizations to which no response is required.

202. By removing books from ESD libraries because of disagreement with the ideas contained in those books, the Board violated—and will continue to violate—the Colorado Constitution.

RESPONSE: Deny.

203. Plaintiffs are entitled to monetary, declaratory, and injunctive relief for the Board's violation of their rights under Article II, section 10 of the Colorado Constitution.

RESPONSE: Deny.

**Response to Causes of Action – “Third Claim for Relief
42 U.S.C. § 1983 – First Amendment
Freedom of Expression
Plaintiff Authors Guild Against Defendant”**

204. The allegations of the foregoing paragraphs are incorporated by reference as though fully set forth herein.

RESPONSE: All responses to the foregoing paragraphs are incorporated by reference as though fully set forth herein.

205. The First Amendment protects authors' ability to communicate their ideas to students without undue government interference.

RESPONSE: This paragraph contains legal conclusions or characterizations to which no response is required.

206. The Board removed Guild members' books because of its distaste for the viewpoints and topics expressed therein.

RESPONSE: Deny.

207. The Board's removal of Guild members' books from ESD libraries violates the First Amendment because it interferes with members' ability to share their constitutionally protected books free from viewpoint-based discrimination.

RESPONSE: Deny.

**Response to Causes of Action – “Fourth Claim for Relief
Colo. Const. Art. II, Section 10
Freedom of Expression
Plaintiff Authors Guild Against Defendant”**

208. The allegations of the foregoing paragraphs are incorporated by reference as though fully set forth herein.

RESPONSE: All responses to the foregoing paragraphs are incorporated by reference as though fully set forth herein.

209. Article II, section 10 of the Colorado Constitution protects authors' ability to communicate their ideas to students without undue government interference.

RESPONSE: This paragraph contains legal conclusions or characterizations to which no response is required.

210. The Board removed Guild members' books because of its distaste for the viewpoints and topics expressed therein.

RESPONSE: Deny.

211. The Board's removal of Guild members' books from ESD libraries violates Article II, section 10 because it interferes with members' ability to share their constitutionally protected books free from viewpoint-based discrimination.

RESPONSE: Deny.

Response to Causes of Action – “Fifth Claim for Relief

42 U.S.C. § 198 – First Amendment

Freedom Of Expression

Plaintiffs NAACP, C.C. by and through Kristen Crookshanks, and E.S. by and through Mindy Smith Against Defendant”

212. The allegations of the foregoing paragraphs are incorporated by reference as though fully set forth herein.

RESPONSE: All responses to the foregoing paragraphs are incorporated by reference as though fully set forth herein.

213. Students have a First Amendment-protected interest in sharing books with each other.

RESPONSE: This paragraph contains legal conclusions or characterizations to which no response is required.

214. Sharing books is a non-disruptive form of expression.

RESPONSE: Deny.

215. The Board has no interest that justifies a blanket prohibition on sharing books with each other in school.

RESPONSE: Deny.

Response to Causes of Action – “Sixth Claim for Relief

Colo. Const. Art. II, Section 10

Freedom of Expression

Plaintiffs NAACP, C.C. by and through Kristen Crookshanks, and E.S. by and through Mindy Smith Against Defendant”

216. The allegations of the foregoing paragraphs are incorporated by reference as though fully set forth herein.

RESPONSE: All responses to the foregoing paragraphs are incorporated by reference as though fully set forth herein.

217. Article II, Section 10 of the Colorado Constitution protects students' interest in sharing books with each other.

RESPONSE: This paragraph contains legal conclusions or characterizations to which no response is required.

218. Sharing books is a non-disruptive form of expression.

RESPONSE: Deny.

219. The Board has no interest that justifies a blanket prohibition on sharing books with each other in school.

RESPONSE: Deny.

Response to Prayer for Relief

The paragraph beginning with "WHEREFORE" contains Plaintiffs' request for relief, to which no response is required. To the extent a response is required, the District denies that Plaintiffs are entitled to any of the requested relief.

General Denial

The District denies each allegation, averment, statement, and conclusion of law contained in the Complaint which is not specifically admitted in its Answer.

Separate and Affirmative Defenses

1. This Court lacks subject-matter jurisdiction to adjudicate Plaintiffs' claims;
2. Plaintiffs lack standing to bring their claims;
3. Plaintiffs fail to state a claim upon which relief can be granted;
4. Plaintiffs' claims are barred by the equitable doctrine of laches;
5. Plaintiffs' claims are barred by the equitable doctrine of unclean hands;
6. Plaintiffs' claims are waived;
7. The District is absolutely immune for the conduct at issue; and
8. The District is qualifiedly immune for the conduct at issue.

Prayer for Relief

The District respectfully prays for the following relief:

- A. each of Plaintiffs' claims against the District be dismissed, with prejudice;
- B. judgment enter in the District's favor and against Plaintiffs on all claims set forth in the Complaint;
- C. the District be awarded its costs (including expert witness fees) and attorney fees incurred in this action as provided by law; and
- D. any other relief as this Court deems appropriate.

Request for Trial by Jury

The District demands a jury trial on all issues so triable.

Dated: February 3, 2025

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Respectfully submitted,

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*Attorneys for Defendant Elizabeth
School District*

CERTIFICATE OF SERVICE

I certify that on February 3, 2025, the foregoing document was electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following email addresses:

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s/ Laura J. Ellis

FIRST & FOURTEENTH PLLC