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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

EDWARD ALEXANDER; JOSH
ANDREWS; SHELBY BECK
ANDREWS; and CAREY
CARPENTER

Plaintiffs,

v.

ACTING COMMISSIONER HEIDI
TESHNER, in her official capacity, State
of Alaska, Department of Education and
Early Development,

Defendant,

v.

ANDREA MOCERI, THERESA
BROOKS, and BRANDY
PENNINGTON

Applicants for Intervention.

FILED in the TRIAL COURTS
State of Alaska Third District

JUN 26 2023

Clerk of the Trial Courts
By _____ Deputy

CASE NO: 3AN-23-04309CI

**[PROPOSED] ANSWER AND
AFFIRMATIVE AND DEFENSES OF
INTERVENOR-DEFENDANTS TO
COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF**

Intervenor-Defendants Andrea Mocerri, Theresa Brooks, and Brandy Pennington (collectively, the "Intervenor-Defendants") state the following as their Answer and Affirmative Defenses to the Complaint of Edward Alexander, Josh Andrews, Shelby Beck, and Carey Carpenter (the "Plaintiffs"):

I. INTRODUCTION

1. The allegations in paragraph 1 are legal conclusions and Intervenor-Defendants therefore deny the same.

2. Intervenor-Defendants admit only that the allegations in paragraph 2 contain language quoted from AS 14.03.300(a), 14.03.310(a), and 14.03.310(b), which speaks for itself, and otherwise deny the allegations.

3. Intervenor-Defendants admit only that the allegations in paragraph 3 contain language quoted from Article VII, Section 1 of the Alaska Constitution, which speaks for itself, and otherwise deny the allegations.

4. Intervenor-Defendants admit only that the allegations in the third sentence of paragraph 4 contain language quoted from a report from a meeting of the Senate Education Standing Committee, which speaks for itself. The remaining allegations in paragraph 4 are legal conclusions and Intervenor-Defendants therefore deny the same.

5. Intervenor-Defendants admit only that the allegations in paragraph 5 contain language quoted from a summary, which speaks for itself. The remaining allegations in paragraph 5 are legal conclusions and Intervenor-Defendants therefore deny the same.

6. The allegations in paragraph 6 are legal conclusions and Intervenor-Defendants therefore deny the same.

7. Intervenor-Defendants are without sufficient information or knowledge to form a conclusion regarding the truth or falsity of the allegations in paragraph 7 and therefore deny the same.

8. Intervenor-Defendants are without sufficient information or knowledge to form a conclusion regarding the truth or falsity of the allegations in paragraph 8 and therefore deny the same.

9. The allegations in paragraph 9 are legal conclusions and Intervenor-Defendants therefore deny the same.

10. The allegations in paragraph 10 are legal conclusions and Intervenor-Defendants therefore deny the same.

II. PARTIES

11. Intervenor-Defendants admit that Edward Alexander is a party to the case. Intervenor-Defendants are without sufficient information or knowledge to form a conclusion regarding the remaining allegations in paragraph 11 and therefore deny the same.

12. Intervenor-Defendants admit that Josh Andrews is a party to the case. Intervenor-Defendants are without sufficient information or knowledge to form a conclusion regarding the remaining allegations in paragraph 12 and therefore deny the same.

13. Intervenor-Defendants admit that Shelby Beck Andrews is a party to the case. Intervenor-Defendants are without sufficient information or knowledge to form a conclusion regarding the remaining allegations in paragraph 13 and therefore deny the same.

14. Intervenor-Defendants admit that Carey Carpenter is a party to the case. Intervenor-Defendants are without sufficient information or knowledge to form a

conclusion regarding the remaining allegations in paragraph 14 and therefore deny the same.

15. Intervenor-Defendants admit that Heidi Teshner is the Acting Commissioner of the Department of Education & Early Development (“DEED”) and that she is being sued in her official capacity. Intervenor-Defendants are without sufficient information or knowledge to form a conclusion regarding the truth or falsity of the other allegations in paragraph 15 and therefore deny the same.

III. JURISDICTION AND VENUE

16. The allegations in paragraph 16 are legal conclusions and Intervenor-Defendants therefore deny the same.

17. The allegations in paragraph 17 are legal conclusions and Intervenor-Defendants therefore deny the same.

IV. FACTUAL ALLEGATIONS

18. Intervenor-Defendants admit only that the allegations in paragraph 18 contain language quoted from AS 14.03.300(a), which speaks for itself. Intervenor-Defendants are without sufficient information or knowledge to form a conclusion regarding the truth or falsity of the other allegations in paragraph 18 and therefore deny the same.

19. Intervenor-Defendants are without sufficient information or knowledge to form a conclusion regarding the truth or falsity of the allegations in paragraph 19 and therefore deny the same.

20. Intervenor-Defendants admit only that the allegations in paragraph 20 contain language quoted from AS 14.03.300(a), which speaks for itself, and otherwise deny the allegations.

21. Intervenor-Defendants admit the allegations in paragraph 21 only to the extent that they are consistent with AS 14.03.300(a) and 300(b), which speak for themselves, and otherwise deny the allegations.

22. Intervenor-Defendants are without sufficient information or knowledge to form a conclusion regarding the truth or falsity of the allegations in paragraph 22 and therefore deny the same.

23. Intervenor-Defendants are without sufficient information or knowledge to form a conclusion regarding the truth or falsity of the allegations in paragraph 23 and therefore deny the same.

24. Intervenor-Defendants are without sufficient information or knowledge to form a conclusion regarding the truth or falsity of the allegations in paragraph 24 and therefore deny the same.

25. Intervenor-Defendants are without sufficient information or knowledge to form a conclusion regarding the truth or falsity of the allegations in paragraph 25 and therefore deny the same.

26. Intervenor-Defendants are without sufficient information or knowledge to form a conclusion regarding the truth or falsity of the allegations in paragraph 26 and therefore deny the same.

27. Intervenor-Defendants are without sufficient information or knowledge to form a conclusion regarding the truth or falsity of the allegations in paragraph 27 and therefore deny the same.

28. Intervenor-Defendants are without sufficient information or knowledge to form a conclusion regarding the truth or falsity of the allegations in paragraph 28 and therefore deny the same.

29. Intervenor-Defendants are without sufficient information or knowledge to form a conclusion regarding the truth or falsity of the allegations in paragraph 29 and therefore deny the same.

30. Intervenor-Defendants are without sufficient information or knowledge to form a conclusion regarding the truth or falsity of the allegations in paragraph 30 and therefore deny the same.

31. Intervenor-Defendants admit the first sentence in paragraph 31. In the second sentence, Intervenor-Defendants admit only that the allegations contain language quoted from a report from a meeting of the Senate Education Standing Committee, which speaks for itself, and otherwise deny the allegations.

32. The allegations in the first sentence of paragraph 32 are legal conclusions and Intervenor-Defendants therefore deny the same. Intervenor-Defendants admit only that the allegations in the second sentence of paragraph 32 contain language quoted from a report from a meeting of the Senate Education Standing Committee, which speaks for itself, and otherwise deny the allegations.

33. Intervenor-Defendants admit only that the allegations in paragraph 33 contain language quoted from a report from a meeting of the Senate Education Standing Committee, which speaks for itself, and otherwise deny the allegations.

34. Intervenor-Defendants admit only that the allegations in the first sentence of paragraph 34 contain language quoted from a summary, and otherwise deny the allegations. Intervenor-Defendants admit only that the allegations in the sentence contain language consistent with the summary, and otherwise deny the allegations.

35. The allegations in paragraph 35 are legal conclusions and Intervenor-Defendants therefore deny the same.

36. Intervenor-Defendants admit only that the allegations in paragraph 36 contain language quoted from a report from a meeting of the Senate Education Standing Committee, which speaks for itself, and otherwise deny the allegations.

37. Intervenor-Defendants are without sufficient information or knowledge to form a conclusion regarding the first sentence in paragraph 37 and therefore deny the same. Intervenor-Defendants admit only that the allegations in the second sentence of paragraph 37 contain language quoted from SJR 9, which speaks for itself, and otherwise deny the same.

38. Intervenor-Defendants admit only that the allegations in paragraph 38 contain language quoted from SJR 9, which speaks for itself, and otherwise deny the same. Intervenor-Defendants admit the remaining allegations only to the extent consistent with the language quoted from SJR 9, and otherwise deny the same.

39. Intervenor-Defendants admit only that the allegations in paragraph 39 contain language quoted from a report from a meeting of the Senate Education Standing Committee, which speaks for itself, and otherwise deny the allegations.

40. Intervenor-Defendants admit only that the allegations in paragraph 40 contain language quoted from a report from a meeting of the Senate Education Standing Committee, which speaks for itself, and otherwise deny the allegations.

41. Intervenor-Defendants are without sufficient information or knowledge to form a conclusion regarding the truth or falsity of the allegations in paragraph 41 and therefore deny the same.

42. Intervenor-Defendants are without sufficient information or knowledge to form a conclusion regarding the truth or falsity of the allegations in paragraph 42 and therefore deny the same.

43. Intervenor-Defendants are without sufficient information or knowledge to form a conclusion regarding the truth or falsity of the allegations in paragraph 43 and therefore deny the same.

44. Admit.

45. Admit.

46. Admit.

47. Intervenor-Defendants admit only that the allegations in paragraph 47 contain language quoted from the Deputy Attorney General's opinion, which speaks for itself. The remaining allegations are legal conclusions and Intervenor-Defendants therefore deny the same.

48. Intervenor-Defendants admit only that the allegations in paragraph 48 contain language quoted from the Deputy Attorney General's opinion, which speaks for itself. The remaining allegations are legal conclusions and Intervenor-Defendants therefore deny the same.

49. Intervenor-Defendants admit only that the allegations in paragraph 49 contain language quoted from the Deputy Attorney General's opinion, which speaks for itself. The remaining allegations are legal conclusions and Intervenor-Defendants therefore deny the same.

50. Intervenor-Defendants admit that the allegations in paragraph 50 contain language quoted from the Deputy Attorney General's opinion, which speaks for itself.

51. Intervenor-Defendants admit only that the allegations in paragraph 51 contain language quoted from the Deputy Attorney General's opinion, which speaks for itself. The remaining allegations are legal conclusions and Intervenor-Defendants therefore deny the same.

52. Intervenor-Defendants admit only that the allegations in paragraph 52 contain language quoted from the Deputy Attorney General's opinion, which speaks for itself. The remaining allegations are legal conclusions and Intervenor-Defendants therefore deny the same.

53. Intervenor-Defendants admit only that the allegations in paragraph 53 contain language quoted from the Deputy Attorney General's opinion, which speaks for itself. The remaining allegations are legal conclusions and Intervenor-Defendants therefore deny the same.

54. Admit.

55. The allegations in paragraph 55 are legal conclusions and Intervenor-Defendants therefore deny the same.

V. CLAIMS FOR RELIEF

COUNT I

(Violation of Article VII, Section 1 of the Alaska Constitution)¹

56. Intervenor-Defendants reallege and incorporate by reference every statement in the above paragraphs 1 through 55 as if fully set forth herein.

57. The allegations in paragraph 57 are legal conclusions and Intervenor-Defendants therefore deny the same.

58. Admit.

59. The allegations in paragraph 59 are legal conclusions and Intervenor-Defendants therefore deny the same.

60. Intervenor-Defendants admit only that the allegations in paragraph 60 contain language quoted from *Sheldon Jackson College v. State*, 599 P.2d 127 (Alaska 1979), which speaks for itself, and otherwise deny the allegations.

61. Intervenor-Defendants admit only that the allegations in paragraph 61 contain language quoted from *Sheldon Jackson College v. State*, which speaks for itself, and otherwise deny the allegations.

¹ Intervenor-Defendants are providing the headings for ease of reference. To the extent a heading contains an allegation, Intervenor-Defendants address the allegation in a footnote. The allegations in heading I are legal conclusions and Intervenor-Defendants therefore deny the same.

62. Intervenor-Defendants admit only that the allegations in paragraph 62 contain language quoted from *Sheldon Jackson College v. State*, which speaks for itself, and otherwise deny the allegations.

63. Intervenor-Defendants admit only that the allegations in paragraph 63 contain language quoted from *Sheldon Jackson College v. State*, which speaks for itself, and otherwise deny the allegations.

64. Intervenor-Defendants admit only that the allegations in paragraph 64 contain language quoted from *Sheldon Jackson College v. State*, which speaks for itself, and otherwise deny the allegations.

65. Intervenor-Defendants admit only that the allegations in paragraph 65 contain language quoted from *Sheldon Jackson College v. State*, which speaks for itself, and otherwise deny the allegations.

66. Intervenor-Defendants admit only that the allegations in paragraph 66 contain language quoted from *Sheldon Jackson College v. State*, which speaks for itself, and otherwise deny the allegations.

67. The allegations in paragraph 67 are legal conclusions and Intervenor-Defendants therefore deny the same.

68. Intervenor-Defendants admit only that the allegations in paragraph 68 contain language quoted from *Sheldon Jackson College v. State*, which speaks for itself, and otherwise deny the allegations.

69. Intervenor-Defendants admit only that the allegations in paragraph 69 contain language quoted from *Sheldon Jackson College v. State*, which speaks for itself, and otherwise deny the allegations.

70. The allegations in paragraph 70 are legal conclusions and Intervenor-Defendants therefore deny the same.

71. The allegations in paragraph 71 are legal conclusions and Intervenor-Defendants therefore deny the same.

72. The allegations in paragraph 72 are legal conclusions and Intervenor-Defendants therefore deny the same.

PRAYER FOR RELIEF

1. No response is required as this prayer for relief contains no allegations of fact or law.

2. No response is required as this prayer for relief contains no allegations of fact or law.

3. No response is required as this prayer for relief contains no allegations of fact or law.

4. No response is required as this prayer for relief contains no allegations of fact or law.

AFFIRMATIVE DEFENSES

1. Intervenor-Defendants reserve the right to assert any affirmative defense to the extent that facts discovered in the course of this litigation support such an affirmative defense.

2. Intervenor-Defendants reserve the right to assert any affirmative defense raised by Defendant Teshner and any other intervening party.

3. The Plaintiffs' claims fail, in whole or in part, because they have failed to state a claim upon which relief can be granted.

4. The Plaintiffs' claims fail, in whole or in part, because they seek a judicial decision that would violate the Free Speech, Free Exercise, Establishment, Due Process, and Equal Protection Clauses of the U.S. Constitution.

5. Intervenor-Defendants request this Court enter a final judgment in favor of Defendants and Intervenor-Defendants as follows:

- a. dismissing Plaintiffs' claims with prejudice;
- b. denying Plaintiffs' requests for permanent and temporary injunctions;
- c. awarding Intervenor-Defendants any and all such other relief as the Court deems just and equitable, including, but not limited to, an award of attorneys' fees and costs to the extent provided by Alaska law.

Dated this 26th day of January, 2023.

LAW OFFICES OF CRAIG RICHARDS
Counsel for Intervenor

By: /s/ Craig Richards
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**Pro Hac Vice Applications To Be Filed*

CERTIFICATE OF SERVICE

I certify that on this 26th day of January, 2023, a true and correct copy of the foregoing was served upon the following by e-mail:

Scott M. Kendall
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Acting Commissioner Heidi Teshner
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By: /s/ Craig Richards