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MONTANA EIGHTH JUDICIAL DISTRICT COURT, CASCADE COUNTY

<p>SHAUNA YELLOW KIDNEY, et al.,  Plaintiffs,  v.  MONTANA OFFICE OF PUBLIC INSTRUCTION, et al.,  Defendants.</p>	<p>Cause No. DDV-21-0398 Hon. Amy Eddy  <b>DEFENDANTS' ANSWER TO PLAINTIFF'S FIRST AMENDED CLASS ACTION COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF</b></p>
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COMES NOW Defendants, Montana Office of Public Instruction, Elsie Arntzen, in her official capacity as Superintendent of Public Instruction, Montana Board of Public Education and

Madalyn Quinlan<sup>1</sup>, in her official capacity as Chair of the Board of Public Education Answers the First Amended Class Action Complaint for Declaratory and Injunctive Relief (hereinafter “First Amended Class Action Complaint”) filed herein as follows.

1. In answering paragraph 1 Defendants assert that it states a legal conclusion not requiring an answer. To the extent a fact is alleged, the same is denied.

2. In answering paragraph 2 Defendants assert that it states a legal conclusion not requiring an answer. To the extent a fact is alleged, the same is denied. The referenced constitutional provision and court opinion speak for themselves.

3. In answering paragraph 3 Defendants assert that it states a legal conclusion not requiring an answer. To the extent a fact is alleged, the same is denied. The referenced statutes speak for themselves.

4. In answering paragraph 4 Defendants assert that it states a legal conclusion not requiring an answer. To the extent a fact is alleged, the same is denied. The referenced court opinion speaks for itself.

5. In answering paragraph 5 Defendants deny the same.

6. In answering paragraph 6 Defendants deny the same.

7. In answering paragraph 7 Defendants deny the same.

### **PARTIES**

8. In answering paragraph 8 Defendants lack sufficient knowledge to admit or deny and therefore deny the same.

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<sup>1</sup> Pursuant to Mont. R. Civ. P. 25(d), the case caption is amended to reflect substitution of Defendant Chairperson Madalyn Quinlan for former Chairperson Darlene Schottle.

9. In answering paragraph 9 Defendants lack sufficient knowledge to admit or deny and therefore deny the same.

10. In answering paragraph 10, Defendants lack sufficient knowledge to admit or deny the allegations and therefore deny the same.

11. Defendants deny the allegations contained in paragraph 11 of Plaintiff's First Amended Class Action Complaint.

12. Defendants lack sufficient information to admit or deny the allegations contained in paragraph 12 and therefore deny the same.

13. Defendants lack sufficient information to admit or deny the allegations contained in paragraph 13 and therefore deny the same.

14. In answering paragraph 14, Defendants lack sufficient knowledge to admit or deny the allegations and therefore deny the same.

15. Defendants deny the allegations contained in paragraph 15 of Plaintiff's First Amended Class Action Complaint.

16. In answering paragraph 16 Defendants lack sufficient knowledge to admit or deny and therefore deny the same.

17. In answering paragraph 17 Defendants lack sufficient knowledge to admit or deny and therefore deny the same.

18. In answering paragraph 18, Defendants lack sufficient knowledge to admit or deny the allegations and therefore deny the same.

19. In answering paragraph 19, Defendants lack sufficient knowledge to admit or deny the allegations and therefore deny the same.

20. In answering paragraph 20 Defendants lack sufficient knowledge to admit or deny and therefore deny the same.

21. In answering paragraph 21 Defendants lack sufficient knowledge to admit or deny and therefore deny the same.

22. In answering paragraph 22, Defendants lack sufficient knowledge to admit or deny the allegations and therefore deny the same.

23. In answering paragraph 23 Defendants lack sufficient knowledge to admit or deny the allegations especially as to details concerning Plaintiff's allegations about harm and its consequences and therefore deny the same.

24. In answering paragraph 24 Defendants lack sufficient knowledge to admit or deny and therefore deny the same.

25. In answering paragraph 25 Defendants lack sufficient knowledge to admit or deny and therefore deny the same.

26. In answering paragraph 26, Defendants lack sufficient knowledge to admit or deny the allegations and therefore deny the same.

27. Defendants deny the allegations contained in the first sentence of paragraph 27 of Plaintiff's First Amended Class Action Complaint. As to the remainder of the paragraph, Defendants are without sufficient information to admit or deny the allegations and therefore deny the same.

28. In answering paragraph 28 Defendants lack sufficient knowledge to admit or deny and therefore deny the same.

29. In answering paragraph 29 Defendants lack sufficient knowledge to admit or deny and therefore deny the same.

30. In answering paragraph 30 Defendants lack sufficient knowledge to admit or deny the allegations and therefore deny the same.

31. In answering paragraph 31 Defendants assert that the first sentence calls for a legal conclusion not requiring an answer. Defendants deny the remaining allegations contained in paragraph 31 of Plaintiff's First Amended Class Action Complaint.

32. In answering paragraph 32 Defendants lack sufficient knowledge to admit or deny and therefore deny the same.

33. In answering paragraph 33 Defendants lack sufficient knowledge to admit or deny and therefore deny the same.

34. In answering paragraph 34 Defendants lack sufficient knowledge to admit or deny the allegations and therefore deny the same.

35. Defendants deny the allegations that they have failed to set forth measurable standards and as to the remaining allegations lack sufficient knowledge to admit or deny the allegations and therefore deny the same.

36. In answering paragraph 36 Defendants lack sufficient knowledge to admit or deny and therefore deny the same.

37. In answering paragraph 37 Defendants lack sufficient knowledge to admit or deny and therefore deny the same.

38. In answering the allegations in paragraph 38 Defendants lack sufficient information to admit or deny the allegations and therefore deny the same.

39. Defendants deny the allegations that they have failed to set forth measurable standards and as to the remaining allegations are without sufficient information to admit or deny the allegations and therefore deny the same.

40. In answering paragraph 40 Defendants lack sufficient knowledge to admit or deny and therefore deny the same.

41. In answering paragraph 41 Defendants admit the first sentence. As to the remainder of the paragraph, Defendants lack sufficient knowledge to admit or deny and therefore deny the same.

42. Defendants deny the allegations referencing their involvement contained in paragraph 42 of Plaintiff's First Amended Class Action Complaint and lack sufficient information to admit or deny the remaining allegations in the paragraph and therefore deny the same.

43. Defendants deny the allegations referencing their involvement contained in the first sentence of paragraph 43 of Plaintiff's First Amended Class Action Complaint and lack sufficient information to admit or deny the remaining allegations in the paragraph and therefore deny the same.

44. Defendants deny the allegations referencing their involvement in the first sentence contained in paragraph 44 of Plaintiff's First Amended Class Action Complaint and lack sufficient information to admit or deny the remaining allegations in the paragraph and therefore deny the same.

45. In answering paragraph 45 Defendants admit the first sentence. As to the remainder of the paragraph, Defendants lack sufficient knowledge to admit or deny and therefore deny the same.

46. Defendants deny the allegations referencing their involvement contained in paragraph 46 of Plaintiff's First Amended Class Action Complaint and lack sufficient knowledge to admit or deny the remaining allegations in the paragraph and therefore deny the same.

47. Defendants deny the allegations referencing their involvement contained in paragraph 47 of Plaintiff's First Amended Class Action Complaint and lack sufficient knowledge to admit or deny the remaining allegations in the paragraph and therefore deny the same.

48. Defendants deny the allegations referencing their involvement contained in first sentence of paragraph 48 of Plaintiff's First Amended Class Action Complaint and lack sufficient knowledge to admit or deny the remaining allegations in the paragraph and therefore deny the same.

49. In answering paragraph 49, Defendants admit the first sentence. As to the remainder of the paragraph, Defendants lack sufficient knowledge to admit or deny and therefore deny the same.

50. Defendants deny the allegations referencing their involvement contained in paragraph 50 of Plaintiff's First Amended Class Action Complaint and lack sufficient information to admit or deny the remaining allegations in the paragraph.

51. Defendants deny the allegations referencing their involvement contained in first sentence of paragraph 51 of Plaintiff's First Amended Class Action Complaint and lack sufficient information to admit or deny the remaining allegation in the paragraph and therefore deny the same.

52. Defendants deny the allegations in the first sentence contained in paragraph 52 of Plaintiff's First Amended Class Action Complaint and lack sufficient knowledge to admit or deny the remaining allegations in the paragraph and therefore deny the same.

53. In answering paragraph 53 Defendants admit the first sentence. As to the remainder of the paragraph, Defendants lack sufficient knowledge to admit or deny and therefore deny the same.

54. Defendants deny the allegations contained in paragraph 54 of Plaintiff's First Amended Class Action Complaint and lack sufficient knowledge to admit or deny the remaining allegations in the paragraph and therefore deny the same.

55. Defendants deny the allegations referencing their involvement contained in paragraph 55 of Plaintiff's First Amended Class Action Complaint and lack sufficient knowledge to admit or deny the remaining allegations in the paragraph and therefore deny the same.

56. Defendants deny the allegations referencing their involvement contained in paragraph 56 of Plaintiff's First Amended Class Action Complaint and lack sufficient knowledge to admit or deny the remaining allegations in the paragraph and therefore deny the same.

57. In answering paragraph 57 Defendants admit the first sentence. As to the remainder of the paragraph, Defendants lack sufficient knowledge to admit or deny and therefore deny the same.

58. Defendants deny the allegations referencing their involvement contained in paragraph 58 of Plaintiff's First Amended Class Action Complaint and lack sufficient knowledge to admit or deny the remaining allegations in the paragraph and therefore deny the same.

59. Defendants deny the allegations referencing their involvement contained in first sentence of paragraph 59 of Plaintiff's First Amended Class Action Complaint and lack sufficient knowledge to admit or deny the remaining allegations in paragraph and therefore deny the same.

60. Defendants deny the allegations referencing their involvement contained in paragraph 60 of Plaintiff's First Amended Class Action Complaint and lack sufficient knowledge to admit or deny the remaining allegations in the paragraph and therefore deny the same.



61. In answering paragraph 61 Defendants admit the first sentence. As to the remainder of the paragraph, Defendants lack sufficient knowledge to admit or deny and therefore deny the same.

62. Defendants deny the allegations referencing their involvement contained in paragraph 62 of Plaintiff's First Amended Class Action Complaint and lack sufficient knowledge to admit or deny the remaining allegations in the paragraph therefore deny the same.

63. Defendants deny the allegations contained in the first sentence of paragraph 63 of Plaintiff's First Amended Class Action Complaint. As to the remaining allegations, Defendants lack sufficient knowledge to admit or deny the remaining allegations in the paragraph and therefore deny the same.

64. Defendants deny the allegations contained in the first sentence of paragraph 64 of Plaintiff's First Amended Class Action Complaint. As to the remaining allegations, Defendants lack sufficient knowledge to admit or deny the remaining allegations in the paragraph and therefore deny the same.

65. In answering paragraph 65 Defendants assert that it states a legal conclusion not requiring an answer. To the extent a fact is alleged, the same is denied.

66. Regarding the allegations in Paragraph 66 of Plaintiffs' First Amended Class Action Complaint, Defendants admit the same.

67. Regarding the allegations in Paragraph 67 of Plaintiffs' First Amended Class Action Complaint, Defendants admit the same.

68. Regarding the allegations in Paragraph 68 of Plaintiffs' First Amended Class Action Complaint, Defendants admit the same.

69. Regarding the allegations in Paragraph 69 of Plaintiffs' First Amended Class Action Complaint, Defendants admit the same.

70. Regarding the allegations in Paragraph 70 of Plaintiffs' First Amended Class Action Complaint, Defendants admit the same.

71. In answering paragraph 71 Defendants assert that it states a legal conclusion not requiring an answer. To the extent a fact is alleged, the same is denied. The reference constitutional provision and statute speak for themselves.

72. In answering paragraph 72 Defendants assert that it states a legal conclusion not requiring an answer. To the extent a fact is alleged, the same is denied. The referenced statute speaks for itself.

73. In answering paragraph 73 Defendants assert that it states a legal conclusion not requiring an answer. To the extent a fact is alleged, the same is denied. The referenced statutes speak for themselves.

74. In answering paragraph 74 Defendants assert that it states a legal conclusion not requiring an answer. To the extent a fact is alleged, the same is denied. The referenced statute speaks for itself.

75. In answering paragraph 75 Defendants assert that it states a legal conclusion not requiring an answer. To the extent a fact is alleged, the same is denied. The referenced statute speaks for itself.

76. Regarding the allegations in Paragraph 76 of Plaintiffs' Complaint, Defendants admit the same.

77. In answering paragraph 77 Defendants assert that it states a legal conclusion not requiring an answer. To the extent a fact is alleged, the same is denied. The referenced statute speaks for itself.

78. In answering paragraph 78 Defendants assert that it states a legal conclusion not requiring an answer. To the extent a fact is alleged, the same is denied. The referenced statutes and administrative rule speak for themselves.

79. In answering paragraph 79 Defendants assert that it states a legal conclusion not requiring an answer. To the extent a fact is alleged, the same is denied. The referenced statute speaks for itself.

80. In answering paragraph 80 Defendants assert that it states a legal conclusion not requiring an answer. To the extent a fact is alleged, the same is denied. The referenced statutes and administrative rule speak for themselves.

81. In answering paragraph 81 Defendants assert that it states a legal conclusion not requiring an answer. To the extent a fact is alleged, the same is denied. The referenced statutes speak for themselves.

82. In answering paragraph 82 Defendants assert that it states a legal conclusion not requiring an answer. To the extent a fact is alleged, the same is denied. The referenced statutes speak for themselves.

83. In answering paragraph 83 Defendants assert that it states a legal conclusion not requiring an answer. To the extent a fact is alleged, the same is denied. The referenced statute speaks for itself.

84. Regarding the allegations in Paragraph 84 of Plaintiffs' First Amended Class Action Complaint, Defendants admit the same. The reference to the constitutional provision speaks for itself.

85. Regarding the allegations in Paragraph 85 of Plaintiffs' First Amended Class Action Complaint, Defendants admit the same.

86. Regarding the allegations in Paragraph 86 of Plaintiffs' First Amended Class Action Complaint, Defendants admit that Ms. Schottle was the Chairperson at the time of Plaintiffs filing the complaint, but further assert that Ms. Schottle is no longer the Chairperson. The current Chairperson is Madalyn Quinlan.

#### **JURISDICTION AND VENUE**

87. In answering paragraph 87 Defendants assert that it states a legal conclusion not requiring an answer. To the extent a fact is alleged, the same is denied. The referenced constitution provision and statute speak for themselves.

88. In answering paragraph 88 Defendants assert that it states a legal conclusion not requiring an answer. To the extent a fact is alleged, the same is denied. The referenced statutes and court opinions speak for themselves.

89. In answering paragraph 89 Defendants assert that it states a legal conclusion not requiring an answer. To the extent a fact is alleged, the same is denied. The referenced statute speaks for itself.

90. In answering paragraph 90 Defendants assert that it states a legal conclusion not requiring an answer. To the extent a fact is alleged, the same is denied. The referenced statute speaks for itself.

## ALLEGATIONS

91. Defendants admit that Montana is home to seven Indian Reservations and eight federally recognized tribes but as to the remaining allegations Defendants lack sufficient knowledge to admit or them and therefor deny the remaining allegations contained in paragraph 91 of Plaintiff's First Amended Class Action Complaint. The referenced document speaks for itself.

92. In answering paragraph 92, Defendants lack sufficient knowledge to admit or deny the allegations and therefore deny the same. The referenced document speaks for itself.

93. In answering paragraph 93, Defendants lack sufficient knowledge to admit or deny the allegations and therefore deny the same.

94. In answering paragraph 94, Defendants lack sufficient knowledge to admit or deny the allegations and therefor deny the same. The referenced document speaks for itself.

95. Regarding the allegations in Paragraph 95 of Plaintiffs' Complaint, Defendants admit the same. The referenced constitutional provision speaks for itself.

96. Regarding the allegations in Paragraph 96 of Plaintiffs' Complaint, Defendants admit the same.

97. In answering paragraph 97, Defendants assert that it states a legal conclusion not requiring an answer. To the extent a fact is alleged, the same is denied. The referenced court opinion speaks for itself.

98. In answering paragraph 98, Defendants assert that it states a legal conclusion not requiring an answer. To the extent a fact is alleged, the same is denied. The referenced document speaks for itself.

99. In answering paragraph 99, Defendants lack sufficient knowledge to admit or deny the allegations and therefore deny the same. The referenced document speaks for itself.

100. In answering paragraph 100, Defendants lack sufficient knowledge to admit or deny the allegations and therefore deny the same. The referenced document speaks for itself.

101. Regarding the allegations in Paragraph 101 of Plaintiffs' First Amended Class Action Complaint, Defendants admit the same.

102. In answering the first sentence of paragraph 102 Defendants lack sufficient knowledge to admit or deny and therefore deny the same. Regarding the remaining allegations in Paragraph 102 of Plaintiffs' First Amended Class Action Complaint, Defendants assert that it calls for a legal conclusion not requiring an answer. To the extent a fact is alleged, the same is denied. The referenced resolution speaks for itself.

103. In answering paragraph 103 Defendants lack sufficient knowledge to admit or deny and therefore deny the same. The referenced document speaks for itself.

104. In answering paragraph 104, Defendants lack sufficient knowledge to admit or deny the allegations and therefore deny the same. The referenced court opinion speaks for itself.

105. In answering paragraph 105, Defendants lack sufficient knowledge to admit or deny the allegations and therefore deny the same.

106. In answering paragraph 106 Defendants assert that it states a legal conclusion not requiring an answer. To the extent a fact is alleged, the same is denied. The referenced court opinion speaks for itself.

107. Regarding the allegations in Paragraph 107 of Plaintiffs' First Amended Class Action Complaint, Defendants admit the same.

108. In answering paragraph 108 Defendants assert that it states a legal conclusion not requiring an answer. To the extent a fact is alleged, the same is denied. The referenced statute speaks for itself.

109. In answering paragraph 109 Defendants assert that it states a legal conclusion not requiring an answer. To the extent a fact is alleged the same is denied. The referenced document speaks for itself.

110. Regarding the allegations in Paragraph 110 of Plaintiffs' First Amended Class Action Complaint, Defendants admit the same.

111. In Answering paragraph 111 Defendants admit the first sentence. As to the remaining allegations in the paragraph, Defendants deny the same.

112. In Answering paragraph 112 Defendants deny the same.

113. In Answering paragraph 113, Defendants admit the first sentence. As to the remaining allegations in the paragraph, the document speaks for itself.

114. In Answering paragraph 114, Defendants admit the first sentence. As to the remaining allegations in the paragraph, the document speaks for itself.

115. In answering paragraph 115 Defendants assert that it states a legal conclusion not requiring an answer. To the extent a fact is alleged, the same is denied. The referenced administrative rule speaks for itself.

116. In Answering paragraph 116 Defendants deny the same.

117. In answering paragraph 117 Defendants assert that it states a legal conclusion not requiring an answer. The referenced administrative rule speaks for itself.

118. In Answering paragraph 118 Defendants deny the same.

119. In Answering paragraph 119 Defendants deny the same.

120. In answering paragraph 120 as to the first sentence, Defendants lack sufficient knowledge to admit or deny the allegations and therefore deny the same. The second sentence

states a legal conclusion not requiring an answer. To the extent a fact is alleged, the same is denied. The referenced statute speaks for itself.

121. In Answering paragraph 121 Defendants deny the same.

122. In answering paragraph 122 Defendants assert that it states a legal conclusion not requiring an answer. To the extent a fact is alleged, the same is denied. The referenced documents speak for themselves.

123. In answering paragraph 123 Defendant, OPI denies the same. BPE lacks sufficient information to admit or deny and therefore denies the same.

124. In answering paragraph 124 Defendants deny the same. The documentation at OPI on school payments speaks for itself.

125. In answering paragraph 125 Defendants deny the same. The documentation at OPI on how funding was expended as well as the language in the referenced statute speaks for itself.

126. In answering paragraph 126 Defendants deny the same. The documentation at OPI on instructions to school districts speaks for itself.

127. In answering paragraph 127 Defendants lack sufficient knowledge to admit or deny the allegations in the paragraph and therefore deny the same. The referenced document speaks for itself.

128. In answering paragraph 128 Defendants deny the same. The referenced document speaks for itself.

129. In answering paragraph 129 Defendants lack sufficient knowledge to admit or deny the allegations in the paragraph and therefore deny the same.

130. In answering paragraph 130 Defendants lack sufficient knowledge to admit or deny the allegations in the paragraph and therefore deny the same.



131. In answering paragraph 131 Defendants lack sufficient knowledge to admit or deny the allegations in the paragraph and therefore deny the same.

132. In answering paragraph 132 Defendants deny the same. The referenced statute speaks for itself.

133. In answering paragraph 133 Defendants deny the same. The referenced statute speaks for itself. The last sentence states a legal conclusion not requiring an answer.

134. In answering paragraph 134 Defendants lack sufficient knowledge to admit or deny the allegations and therefore deny the same. The first sentence states a legal conclusion not requiring an answer.

135. In answering paragraph 135 Defendants lack sufficient knowledge to admit or deny the allegations and therefore deny the same.

136. In answering paragraph 136 Defendants lack sufficient knowledge to admit or deny the allegations and therefore deny the same.

137. In answering paragraph 137 Defendants assert that it states a legal conclusion not requiring an answer. To the extent a fact is alleged, the same is denied. The referenced statutes speak for themselves.

138. In answering paragraph 138 Defendants assert that it states a legal conclusion not requiring an answer. To the extent a fact is alleged, the same is denied. The referenced administrative rules speak for themselves.

139. Regarding the allegations in Paragraph 139 of Plaintiffs' First Amended Class Action Complaint, Defendants admit the same.

140. In answering paragraph 140 Defendants deny the same. The referenced statute speaks for itself.

141. In answering paragraph 141 Defendants lack sufficient knowledge to admit or deny the allegations and therefore deny the same.

142. In answering paragraph 142 Defendants assert that it states a legal conclusion not requiring an answer. To the extent a fact is alleged, the same is denied. The referenced statute speaks for itself.

143. In answering paragraph 143 Defendants lack sufficient knowledge to admit or deny and therefore deny the same. To the extent these allegations state legal conclusions, the same is denied.

144. In answering paragraph 144 Defendants lack sufficient knowledge to admit or deny and therefore deny the same. To the extent these allegations state legal conclusions, the same are denied.

145. In answering paragraph 145 Defendants lack sufficient knowledge to admit or deny the allegations and therefore deny the same. The referenced document speaks for itself.

146. In answering paragraph 146 Defendants lack sufficient knowledge to admit or deny the allegations and therefore deny the same. The referenced document speaks for itself.

147. In answering paragraph 147 Defendants lack sufficient knowledge to admit or deny the allegations and therefore Defendants deny the same. The referenced documents speak for themselves.

148. In answering paragraph 148 Defendants deny the same.

149. In answering paragraph 149 Defendants deny the same. The referenced statute speaks for itself.

150. In answering paragraph 150 Defendants deny the same.

151. In answering paragraph 151 Defendants deny the same.

152. In answering paragraph 152 Defendants lack sufficient knowledge to admit or deny and therefore deny the same.

153. In answering paragraph 153 Defendants lack sufficient knowledge to admit or deny and therefore deny the same.

154. Regarding the allegations in Paragraph 154 of Plaintiffs' Complaint, Defendants admit the same and answer the referenced documents speaks for itself.

155. In answering paragraph 155 Defendants lack sufficient knowledge to admit or deny and therefore deny the same.

156. In answering paragraph 156 Defendants lack sufficient knowledge to admit or deny and therefore deny the same.

157. In answering paragraph 157 Defendants lack sufficient knowledge to admit or deny and therefore deny the same.

158. In answering paragraph 158 Defendants lack sufficient knowledge to admit or deny and therefore deny the same.

159. In answering paragraph 159 Defendants deny the same.

#### **CLAIMS FOR RELIEF**

160. Defendants incorporate by reference their answers to paragraphs 1 through 159 above.

161. In answering paragraph 160 Defendants assert that it states a legal conclusion not requiring an answer. To the extent a fact is alleged, the same is denied. The referenced statutes speak for themselves.

162. In answering paragraph 162 Defendants assert that it states a legal conclusion not requiring an answer. To the extent a fact is alleged, the same is denied.

163. In answering paragraph 163 Defendants assert that it states a legal conclusion not requiring an answer. To the extent a fact is alleged, the same is denied.

164. In answering paragraph 164 Defendants assert that it states a legal conclusion not requiring an answer. To the extent a fact is alleged, the same is denied.

165. In answering paragraph 165 Defendants assert that it states a legal conclusion not requiring an answer. To the extent a fact is alleged, the same is denied. The referenced court opinions speak for themselves.

166. In answering paragraph 166 Defendants assert that it states a legal conclusion not requiring an answer. To the extent a fact is alleged, the same is denied.

167. In answering paragraph 167 Defendants assert that it states a legal conclusion not requiring an answer. To the extent a fact is alleged, the same is denied. The referenced court opinions speak for themselves.

168. In Answering paragraph 168 Defendants deny the same.

### **DEFENSES**

1. Defendants deny each and every allegation not specifically admitted.
2. Plaintiffs' First Amended Complaint fails to state a claim for which relief can be granted.
3. Plaintiffs fail to allege redressable injuries in fact.
4. Defendants owe no duties to Plaintiffs under either Article X Section 1(2) of the Montana Constitution (IEC).
5. Defendants owe no duties to Plaintiffs under Section 20-1-501 MCA et seq., the Montana Indian Education for All Act (IEFA).
6. Defendants did not violate any legal duty owed to Plaintiffs.

7. At all relevant times, Defendants' actions conformed to the applicable requirements of IEFA and other statutory provisions implementing or referencing IEFA and Article X, Section 1. (2) at the time the Complaint was filed.

8. Plaintiffs' alleged harm or damages, if any, were caused or contributed to by the negligence or fault of parties, other persons, firms, corporations, or entities over whom, or circumstances over which Defendants had no control, or right of control, and for whom or for which they were not responsible.

9. The IEC is not self-executing.

10. The Court lacks jurisdiction because the IEC and IEFA create non-justiciable political questions.

11. Plaintiffs have not been deprived of an interest in liberty or property by actions of the Defendants.

12. The issues alleged in Plaintiffs First Amended Complaint are not legally appropriate for declaratory or injunctive Relief.

13. Plaintiffs' claims may be barred by the doctrines of waiver, laches, and estoppel.

14. Plaintiffs have failed to join all necessary such as the board of trustees for elementary or secondary public school districts. In the absence of joinder, the controversy cannot be resolved and will not end.

15. If HB 338 is signed into law, the claims in the case of deficient actions of Defendants are rendered moot.

16. The relief requested is not definable given the type, quality and objectives of compliance are not clear. For example, the vague terms such as "preserve cultural heritage,"

“culturally responsive manner,” “tribes in close proximity,” are subject to variable definitions, and are not actionable or remediable.

17. Actions referenced by IEFA, Article X Section 1. (2) and other related statutes are discretionary.

18. The statute of limitations applies to cognizable causes of action that occurred more than two years before the filing of the Amended Complaint.

19. The Defendants are immune from suit.

20. Defendants raise the above defenses so that they will not be waived and reserve the right to add additional defenses that may become apparent during discovery or to dismiss those which may later show not to apply.

#### **PRAYER FOR RELIEF**

WHEREFORE Defendants and Plaintiffs pray for the following relief:

1. That Plaintiffs take nothing by their First Amended Complaint.
2. For judgment for Defendants on all counts of Plaintiffs' First Amended Complaint.
3. For attorneys fees and costs of suit if permitted by law.
4. For such other relief as the Court deems just and proper.

DATED this 9th day of May, 2023.


Austin Knudsen  
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COUNSEL FOR REPENDENT BOARD  
OF PUBLIC EDUCATION AND  
MADALYN QUINLAN

## CERTIFICATE OF SERVICE

I, Thane P. Johnson, hereby certify that I have served true and accurate copies of the foregoing Answer/Brief - Answer to the following on 05-09-2023:

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Electronically signed by Dia Lang on behalf of Thane P. Johnson  
Dated: 05-09-2023