

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

.....X

ALAINA DANIELS,

Plaintiff,

-against-

SPEYER LEGACY SCHOOL,

Defendant.

Case No.: 21-CV-1747 (DLC)

.....X

**ANSWER TO PLAINTIFF’S FIRST AMENDED COMPLAINT**

Defendant Speyer Legacy School (“Defendant”), by and through its undersigned attorneys, Jackson Lewis P.C., hereby responds to the allegations set forth in the First Amended Complaint (the “FAC”) filed by Plaintiff Alaina Daniels (“Plaintiff”) and states as follows:

**AS TO “PRELIMINARY STATEMENT”**

1. Defendant admits that Plaintiff purports to bring claims pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e *et seq.* (“Title VII”), the New York State Human Rights Law, New York State Executive Law, § 296 (“NYSHRL”), and the New York City Human Rights Law, New York City Administrative Code § 8-107(a), *et seq.* (“NYCHRL”).

2. Defendant denies each and every allegation set forth in Paragraph “2” of the FAC, except admits that Defendant hired Plaintiff as a Science teacher for the 5<sup>th</sup> and 6<sup>th</sup> grades and that, upon information and belief, Plaintiff identifies as a transgender woman.

3. Defendant denies each and every allegation set forth in Paragraph “3” of the FAC, except admits that Defendant is committed to diversity and inclusion; and respectfully avers

that Defendant took prompt and remedial action in response to any complaints received.

4. Defendant denies each and every allegation set forth in Paragraph “4” of the FAC; and respectfully avers that Defendant took prompt and remedial action in response to any complaints received.

5. Defendant denies each and every allegation set forth in Paragraph “5” of the FAC; and respectfully avers that Defendant took prompt and remedial action in response to any complaints received.

6. Defendant denies each and every allegation set forth in Paragraph “6” of the FAC; and respectfully avers that Defendant took prompt and remedial action in response to any complaints received.

7. Defendant denies each and every allegation set forth in Paragraph “7” of the FAC; and respectfully avers that Defendant took prompt and remedial action in response to any complaints received.

8. Defendant denies each and every allegation set forth in Paragraph “8” of the FAC, except admit that Plaintiff resigned her position with Defendant.

**AS TO “PARTIES”**

9. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph “9” of the FAC.

10. Defendant admits the allegations set forth in Paragraph “10” of the FAC.

11. Defendant denies each and every allegation set forth in Paragraph “11” of the FAC, except admits that it is a K-8 private school for gifted learners and is located at 925 9th Avenue, New York, New York 10019.

12. Defendant admits the allegations set forth in Paragraph “12” of the FAC.

13. Paragraph “13” of the FAC contains conclusions of law to which no response is required. To the extent a response may be required, Defendant denies each and every allegation set forth in Paragraph “13” of the FAC.

14. Paragraph “14” of the FAC contains conclusions of law to which no response is required. To the extent a response may be required, Defendant denies each and every allegation set forth in Paragraph “14” of the FAC.

15. Paragraph “15” of the FAC contains conclusions of law to which no response is required. To the extent a response may be required, Defendant denies each and every allegation set forth in Paragraph “15” of the FAC.

**AS TO “PROCEDURAL HISTORY”**

16. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph “16” of the FAC, except admits that Plaintiff filed a Charge with the EEOC at some time.

17. Defendant admits the allegations set forth in Paragraph “17” of the FAC.

18. Defendant admits that Plaintiff purports to bring the claims alleged pursuant to Title VII, NYSHRL and the NYCHRL set forth in Paragraph “18” of the FAC.

19. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph “19” of the FAC.

20. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph “20” of the FAC.

21. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph “21” of the FAC.

**AS TO “JURISDICTION AND VENUE”**

22. Paragraph “22” of the FAC contains conclusions of law to which no response is required. To the extent a response may be required, Defendant admits that this Court has subject matter jurisdiction, generally, pursuant to the statutes cited in Paragraph “22” of the FAC.

23. Paragraph “23” of the FAC contains conclusions of law to which no response is required. To the extent a response may be required, and to the extent jurisdiction is proper, Defendant admits venue is appropriate in the Southern District of New York.

**AS TO “FACTS”**

**As to the allegations that “Ms. Daniels was hired under false pretenses regarding diversity and inclusion and treated differently from cisgender female teachers from the start.”**

24. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph “24” of the FAC.

25. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph “25” of the FAC, except admits that Johns Hopkins University rented space from Defendant during the summer of 2019 and upon information and belief, Plaintiff was employed by Johns Hopkins University during that time period.

26. Defendant denies each and every allegation set forth in Paragraph “26” of the FAC.

27. Defendant denies each and every allegation set forth in Paragraph “27” of the FAC, except admits that Mr. Donovan interviewed Plaintiff for a potential teaching job and that Defendant is and was committed to building a diverse and inclusive community.

28. Defendant denies each and every allegation set forth in Paragraph “28” of the FAC, except admits that Mr. Donovan expressed an interest in implementing an LGBTQ+

affinity group for faculty, staff and students.

29. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph “29” of the FAC.

30. Defendant denies each and every allegation set forth in Paragraph “30” of the FAC.

31. Defendant denies each and every allegation set forth in Paragraph “31” of the FAC.

32. Defendant denies each and every allegation set forth in Paragraph “32” of the FAC, except admits that Ms. Behradnia interviewed Plaintiff for a potential teaching position, that Defendant, Ms. Behradnia and Mr. Donovan were and are committed to diversity and inclusion, and that Defendant previously consulted with Diversity Directions LLC.

33. Defendant denies each and every allegation set forth in Paragraph “33” of the FAC, except admits that Defendant welcomes diverse perspectives.

34. Defendant denies each and every allegation set forth in Paragraph “34” of the FAC.

35. Defendant denies each and every allegation set forth in Paragraph “35” of the FAC.

36. Defendant denies each and every allegation set forth in Paragraph “36” of the FAC, except states that any documents and/or communications referenced in paragraph “36” speak for themselves.

37. Defendant denies each and every allegation set forth in Paragraph “37” of the FAC, except states that any documents and/or communications referenced in paragraph “37” speak for themselves.

38. Defendant denies each and every allegation set forth in Paragraph “38” of the FAC.

39. Defendant denies each and every allegation set forth in Paragraph “39” of the FAC, except admits that Mr. Donovan interviewed Plaintiff for a potential Science teaching position for 5<sup>th</sup> and 6<sup>th</sup> grade students.

40. Defendant denies each and every allegation set forth in Paragraph “40” of the FAC.

41. Defendant denies each and every allegation set forth in Paragraph “41” of the FAC.

42. Defendant denies each and every allegation set forth in Paragraph “42” of the FAC.

43. Defendant denies each and every allegation set forth in Paragraph “43” of the FAC.

44. Defendant admits the allegations set forth in Paragraph “44” of the FAC.

**As to the allegations that “Speyer learned of Ms. Daniels’ raising of prior concerns regarding discrimination at her orientation, causing Speyer to retaliate for having done so. Staff also expressed discriminatory view regarding sexual harassment at the orientation.”**

45. Defendant denies the allegations set forth in Paragraph “45” of the FAC, except admits that Defendant hosted a training for all faculty and administrative staff, which included, *inter alia*, anti-sexual harassment training on August 28, 2019.

46. Defendant denies each and every allegation set forth in Paragraph “46” of the FAC.

47. Defendant denies each and every allegation set forth in Paragraph “47” of the FAC, except admits that the anti-harassment training included a breakout session in which the

staff were divided up into smaller groups.

**As to the allegations that “Ms. Daniels was treated differently from other teachers in the offer and contract because of her prior protected activity regarding complaints of sex discrimination.”**

48. Defendant denies each and every allegation set forth in Paragraph “48” of the FAC, except states that any documents referenced in paragraph “48” speak for themselves.

49. Defendant denies each and every allegation set forth in Paragraph “49” of the FAC, except admits that other faculty have been required to agree to various written conditions concerning continued employment with Defendant.

50. Defendant denies each and every allegation set forth in Paragraph “50” of the FAC; and respectfully avers that Mr. Donovan had concerns regarding Plaintiff’s pre-hire salary negotiations.

51. Defendant denies each and every allegation set forth in Paragraph “51” of the FAC.

52. Defendant denies each and every allegation set forth in Paragraph “52” of the FAC.

53. Defendant denies each and every allegation set forth in Paragraph “53” of the FAC.

**As to the allegations that “Ms. Daniels experienced sexually harassing language, physical touching and differential treatment based on her gender identity and sexual orientation, as well as hostility towards other transgender and cisgender women and girls.”**

54. Defendant denies each and every allegation set forth in Paragraph “54” of the FAC.

55. Defendant denies each and every allegation set forth in Paragraph “55” of the FAC.

56. Defendant denies each and every allegation set forth in Paragraph “56” of the FAC.

57. Defendant denies each and every allegation set forth in Paragraph “57” of the FAC.

58. Defendant denies each and every allegation set forth in Paragraph “58” of the FAC.

59. Defendant denies each and every allegation set forth in Paragraph “59” of the FAC.

60. Defendant denies each and every allegation set forth in Paragraph “60” of the FAC.

61. Defendant denies each and every allegation set forth in Paragraph “61” of the FAC.

62. Defendant denies each and every allegation set forth in Paragraph “62” of the FAC.

63. Defendant denies each and every allegation set forth in Paragraph “63” of the FAC.

64. Defendant denies each and every allegation set forth in Paragraph “64” of the FAC.

65. Defendant denies each and every allegation set forth in Paragraph “65” of the FAC.

66. Defendant denies each and every allegation set forth in Paragraph “66” of the FAC.

67. Defendant denies each and every allegation set forth in Paragraph “67” of

the FAC.

68. Defendant denies each and every allegation set forth in Paragraph “68” of the FAC.

69. Defendant denies each and every allegation set forth in Paragraph “69” of the FAC.

70. Defendant denies each and every allegation set forth in Paragraph “70” of the FAC.

71. Defendant denies each and every allegation set forth in Paragraph “71” of the FAC; and respectfully avers that intentionally misgendering someone is a violation of Defendant’s Anti-Harassment Policy.

72. Defendant denies each and every allegation set forth in Paragraph “72” of the FAC.

73. Defendant denies each and every allegation set forth in Paragraph “73” of the FAC.

74. Defendant denies each and every allegation set forth in Paragraph “74” of the FAC.

75. Defendant denies each and every allegation set forth in Paragraph “75” of the FAC.

76. Defendant denies each and every allegation set forth in Paragraph “76” of the FAC; except admits that Manuel Vallejo was employed by Defendant as a dishwasher in the kitchen from August 20, 2018 to March 20, 2020.

77. Defendant denies each and every allegation set forth in Paragraph “77” of the FAC.

78. Defendant denies each and every allegation set forth in Paragraph “78” of the FAC.

79. Defendant denies each and every allegation set forth in Paragraph “79” of the FAC.

80. Defendant denies each and every allegation set forth in Paragraph “80” of the FAC.

81. Defendant denies each and every allegation set forth in Paragraph “81” of the FAC.

82. Defendant denies each and every allegation set forth in Paragraph “82” of the FAC; and respectfully avers that there is a comprehensive health curriculum provided to Defendant’s students regarding psychological, emotional, puberty, sexual reproduction and gender identity issues.

83. Defendant denies each and every allegation set forth in Paragraph “83” of the FAC.

84. Defendant denies each and every allegation set forth in Paragraph “84” of the FAC.

85. Defendant denies each and every allegation set forth in Paragraph “85” of the FAC.

86. Defendant admits the allegations set forth in Paragraph “86” of the FAC.

87. Defendant denies each and every allegation set forth in Paragraph “87” of the FAC.

88. Defendant denies each and every allegation set forth in Paragraph “88” of the FAC; and respectfully avers that as part of the guide’s interactive foraging exercises, the guide

engaged with some of the students during the course of those exercises on the October 25, 2019 student field trip in Central Park with the male guide (“Student Field Trip”).

89. Defendant denies each and every allegation set forth in Paragraph “89” of the FAC, except Defendant: a) admits that Plaintiff asked a female student if she was bothered by the guide’s actions; and b) states that any documents and/or communications referenced in Paragraph “89” speak for themselves.

90. Defendant denies each and every allegation set forth in Paragraph “90” of the FAC, except Defendant admits that one of Defendant’s faculty members had a conversation with the guide during the Student Field Trip.

91. Defendant denies each and every allegation set forth in Paragraph “91” of the FAC; except Defendant admits that there was a conversation about a plant related to Greek mythology during the Student Field Trip.

92. Defendant denies each and every allegation set forth in Paragraph “92” of the FAC.

93. Defendant denies each and every allegation set forth in Paragraph “93” of the FAC, except Defendant admits that Plaintiff notified Defendant as to her concerns regarding the Student Field Trip.

94. Defendant denies each and every allegation set forth in Paragraph “94” of the FAC, except admits that Defendant did not contact the male guide for any future student trips after the Student Field Trip.

95. Defendant denies each and every allegation set forth in Paragraph “95” of the FAC, except Defendant admits that there was a meeting held with the 5<sup>th</sup> grade classes who had attended the Student Field Trip.

96. Defendant denies each and every allegation set forth in Paragraph “96” of the FAC.

97. Defendant denies each and every allegation set forth in Paragraph “97” of the FAC.

98. Defendant denies each and every allegation set forth in Paragraph “98” of the FAC.

99. Defendant denies each and every allegation set forth in Paragraph “99” of the FAC.

**As to the allegations that “Ms. Daniels was criticized for trying to join the diversity committees that she had been told by Mr. Donovan that she would be a part of if she came to Speyer. She was not given the opportunity to change Speyer’s weak and ineffective diversity culture that Mr. Donovan had promised in soliciting her to join the Speyer staff.”**

100. Defendant denies each and every allegation set forth in Paragraph “100” of the FAC, except Defendant: a) admits that Plaintiff contacted two of Defendant’s Board of Trustees; and b) states that any documents and/or communications referenced in paragraph “100” speak for themselves.

101. Defendant denies each and every allegation set forth in Paragraph “101” of the FAC, except admits that nominations for the Board of Trustees Diversity Task Force had been made prior to Plaintiff’s email to said Board of Trustee Members.

102. Defendant denies each and every allegation set forth in Paragraph “102” of the FAC, except Defendant states that any documents and/or communications referenced in paragraph “102” speak for themselves.

103. Defendant denies each and every allegation set forth in Paragraph “103” of the FAC; except admits that Mr. Donovan had a conversation with Plaintiff regarding her interest in joining the Board of Trustees Diversity Task Force.

104. Defendant denies each and every allegation set forth in Paragraph “104” of the FAC.

105. Defendant denies each and every allegation set forth in Paragraph “105” of the FAC.

106. Defendant denies each and every allegation set forth in Paragraph “106” of the FAC.

107. Defendant denies each and every allegation set forth in Paragraph “107” of the FAC.

108. Defendant denies each and every allegation set forth in Paragraph “108” of the FAC.

**As to the allegations “The hostile environment towards transgender and cisgender women and girls intensified. Influential parents were permitted to engage in behaviors hostile to cisgender and transgender women and girls.”**

109. Defendant denies each and every allegation set forth in Paragraph “109” of the FAC.

110. Defendant denies each and every allegation set forth in Paragraph “110” of the FAC, except Defendant admits that in or about November, 2019, several former 8<sup>th</sup> grade male students made inappropriate comments to several former 8<sup>th</sup> grade female students and Defendant took prompt and appropriate action in response to said complaints.

111. Defendant denies each and every allegation set forth in Paragraph “111” of the FAC.

112. Defendant denies each and every allegation set forth in Paragraph “112” of the FAC.

113. Defendant denies each and every allegation set forth in Paragraph “113” of

the FAC.

114. Defendant denies each and every allegation set forth in Paragraph “114” of the FAC.

115. Defendant denies each and every allegation set forth in Paragraph “115” of the FAC.

116. Defendant denies each and every allegation set forth in Paragraph “116” of the FAC.

117. Defendant denies each and every allegation set forth in Paragraph “117” of the FAC.

118. Defendant denies each and every allegation set forth in Paragraph “118” of the FAC.

119. Defendant denies each and every allegation set forth in Paragraph “119” of the FAC.

**As to the allegations that “Speyer perpetuated an environment that made it unsafe to be a transgender female teacher and to support LGBTQ students who requested support in the face of bullying.”**

120. Defendant denies each and every allegation set forth in Paragraph “120” of the FAC, except Defendant admits that on November 14, 2019, there was a parent complaint regarding Plaintiff’s disclosure of her gender identity and sexual orientation during the identity and language unit of the curriculum and Defendant also admits that Plaintiff largely prepared the first draft of the response to the parent and Defendant continues to teach this curriculum.

121. Defendant denies each and every allegation set forth in Paragraph “121” of the FAC.

122. Defendant denies each and every allegation set forth in Paragraph “122” of

the FAC.

123. Defendant denies each and every allegation set forth in Paragraph “123” of the FAC.

124. Defendant denies each and every allegation set forth in Paragraph “124” of the FAC; and Defendant respectfully avers that Ms. Cristella has had a conversation with Plaintiff regarding her support for this male student.

125. Defendant denies each and every allegation set forth in Paragraph “125” of the FAC.

126. Defendant denies each and every allegation set forth in Paragraph “126” of the FAC, except states that any documents and/or communications referenced in paragraph “126” speak for themselves.

127. Defendant denies each and every allegation set forth in Paragraph “127” of the FAC.

**As to the allegations that “Ms. Daniels was told by Mr. Donovan that she should stop complaining and taking up too much time and space. When she reported a physical assault by a staff member, she was told that she was probably drunk and acting provocatively.”**

128. Defendant denies each and every allegation set forth in Paragraph “128” of the FAC, except Defendant admits that Mr. Donovan, Ms. Cristella and Plaintiff had conversations about whether Plaintiff’s contract would be extended.

129. Defendant denies each and every allegation set forth in Paragraph “129” of the FAC.

130. Defendant denies each and every allegation set forth in Paragraph “130” of the FAC.

131. Defendant denies the allegations set forth in Paragraph “131” of the FAC,

except Defendant admits that on December 19, 2019, Plaintiff was present at both the Speyer holiday party located on Defendant's premises as well as at an after party located at the Rise Bar and Lounge ("Rise Bar").

132. Defendant denies each and every allegation set forth in Paragraph "132" of the FAC; and respectfully avers that both Plaintiff and Mr. Vallejo were dancing closely and were intoxicated at Defendant's Holiday party and the Rise Bar after party.

133. Defendant denies each and every allegation set forth in Paragraph "133" of the FAC.

134. Defendant denies each and every allegation set forth in Paragraph "134" of the FAC; and respectfully avers that Mr. Molin and Plaintiff had a conversation at the Rise Bar on December 19, 2019 and Defendant took prompt and remedial action in response to Plaintiff's complaint.

135. Defendant denies each and every allegation set forth in Paragraph "135" of the FAC; and respectfully avers that Defendant took prompt and remedial action in response to Plaintiff's complaint.

136. Defendant denies each and every allegation set forth in Paragraph "136" of the FAC.

137. Defendant denies each and every allegation set forth in Paragraph "137" of the FAC, except Defendant: a) admits that on or about January 14, 2020, Mr. Donovan and Ms. Cristella had a conversation with Plaintiff about her concerns regarding an incident at the Rise Bar; and b) respectfully avers that Defendant took prompt and remedial action in response to Plaintiff's complaint.

138. Defendant denies each and every allegation set forth in Paragraph "138" of

the FAC, except Defendant: a) admits that on or about January 14, 2020, Mr. Donovan and Ms. Cristella had a conversation with Plaintiff about her concerns regarding an incident at the Rise Bar; and b) respectfully avers that Defendant took prompt and remedial action in response to Plaintiff's complaint.

139. Defendant denies each and every allegation set forth in Paragraph "139" of the FAC, except Defendant: a) admits that on or about January 14, 2020, Mr. Donovan and Ms. Cristella had a conversation with Plaintiff about her concerns regarding an incident at the Rise Bar; and b) respectfully avers that Defendant took prompt and remedial action in response to Plaintiff's complaint.

140. Defendant denies each and every allegation set forth in Paragraph "140" of the FAC, except Defendant: a) admits that on or about January 14, 2020, Mr. Donovan and Ms. Cristella had a conversation with Plaintiff about her concerns regarding an incident at the Rise Bar and other incidents during her employment at Defendant; b) respectfully avers that Defendant took prompt and remedial action in response to Plaintiff's complaint and c) states that any documents and/or communications referenced in paragraph "140" speak for themselves.

141. Defendant denies each and every allegation set forth in Paragraph "141" of the FAC.

142. Defendant denies each and every allegation set forth in Paragraph "142" of the FAC.

**As to the allegations that "Speyer provides an error-filled presentation to parents about transgender people during a talk on sexual education."**

143. Defendant denies each and every allegation set forth in Paragraph "143" of the FAC, except admits that on or about January 19, 2020, Dr. Grimaldi conducted a presentation on Human Reproduction and Sexuality.

144. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph “144” of the FAC.

145. Defendant denies each and every allegation set forth in Paragraph “145” of the FAC.

146. Defendant denies each and every allegation set forth in Paragraph “146” of the FAC.

147. Defendant denies each and every allegation set forth in Paragraph “147” of the FAC, except admits that on or about January 19, 2020, Dr. Grimaldi conducted a presentation on Human Reproduction and Sexuality.

148. Defendant denies each and every allegation set forth in Paragraph “148” of the FAC; and respectfully avers that the presentation included information concerning gender identity, gender expression, transgender, gender binary, gender queer, gender variant, gender transition, pronouns and related concepts.

149. Defendant denies each and every allegation set forth in Paragraph “149” of the FAC.

150. Defendant denies each and every allegation set forth in Paragraph “150” of the FAC.

151. Defendant denies each and every allegation set forth in Paragraph “151” of the FAC, except states that any documents referenced in paragraph “151” speak for themselves.

152. Defendant denies each and every allegation set forth in Paragraph “152” of the FAC, except states that any documents referenced in paragraph “152” speak for themselves.

153. Defendant denies each and every allegation set forth in Paragraph “153” of the FAC.

154. Defendant denies each and every allegation set forth in Paragraph “154” of the FAC.

155. Defendant denies each and every allegation set forth in Paragraph “155” of the FAC.

156. Defendant denies each and every allegation set forth in Paragraph “156” of the FAC.

**As to the allegations that “A meeting about Ms. Daniels’ complaints ends badly.”**

157. Defendant denies each and every allegation set forth in Paragraph “157” of the FAC, except admits that on or about January 17, 2020, Mr. Molin, Ms. Cristella and Plaintiff had a conversation regarding Plaintiff’s requests for accommodations and the prior incident at the Rise Bar.

158. Defendant denies each and every allegation set forth in Paragraph “158” of the FAC; and respectfully avers that on or about January 17, 2020, Mr. Molin, Ms. Cristella and Plaintiff had a conversation regarding Plaintiff’s requests for accommodations and the prior incident at the Rise Bar.

159. Defendant denies each and every allegation set forth in Paragraph “159” of the FAC; and respectfully avers that on or about January 17, 2020, Mr. Molin, Ms. Cristella and Plaintiff had a conversation regarding Plaintiff’s requests for accommodations and the prior incident at the Rise Bar.

160. Defendant denies each and every allegation set forth in Paragraph “160” of the FAC; and respectfully avers that on or about January 17, 2020, Mr. Molin, Ms. Cristella and Plaintiff had a conversation regarding Plaintiff’s requests for accommodations, how Mr. Molin would respond to a potential concern regarding a Board of Trustee and the prior incident at the

Rise Bar.

161. Defendant denies each and every allegation set forth in Paragraph “161” of the FAC; and respectfully avers that on or about January 17, 2020, Mr. Molin, Ms. Cristella and Plaintiff had a conversation regarding Plaintiff’s requests for accommodations, the prior incident at the Rise Bar and Plaintiff’s request to participate on the Board of Trustees Diversity Task Force.

162. Defendant denies each and every allegation set forth in Paragraph “162” of the FAC.

163. Defendant denies each and every allegation set forth in Paragraph “163” of the FAC.

**As to the allegations that “Influential parents falsely attack Ms. Daniels because she is transgender and a lesbian and falsely accuse her of sexually harassing male students. The school, although aware that Ms. Daniels had done nothing wrong, took the side of the parents and subjected Ms. Daniels to accusations and interrogation and forbade her from being alone with the student. At this point, the hostile environment based on sex and retaliation became so intolerable that it affected her emotional health and she was forced to resign.”**

164. Defendant denies each and every allegation set forth in Paragraph “164” of the FAC.

165. Defendant admits the allegations set forth in Paragraph “165” of the FAC.

166. Defendant denies each and every allegation set forth in Paragraph “166” of the FAC, except Defendant admits that upon information and belief, on or about January 27, 2020, two male students were in the boys’ restroom with Plaintiff.

167. Defendant denies each and every allegation set forth in Paragraph “167” of the FAC, except Defendant admits that upon information and belief, on or about January 27, 2020, two male students were in the boys’ restroom with Plaintiff.

168. Defendant denies each and every allegation set forth in Paragraph “168” of

the FAC, except Defendant admits that upon information and belief, on or about January 27, 2020, two male students were in the boys' restroom with Plaintiff.

169. Defendant denies each and every allegation set forth in Paragraph "169" of the FAC, except Defendant admits that upon information and belief, on or about January 27, 2020, two male students were in the boys' restroom with Plaintiff.

170. Defendant denies each and every allegation set forth in Paragraph "170" of the FAC, except states that any documents referenced in paragraph "170" speak for themselves.

171. Defendant denies each and every allegation set forth in Paragraph "171" of the FAC, except Defendant: a) admits that a parent emailed Mr. Donovan and Ms. Cristella to make a complaint about Plaintiff's behavior; and b) states that any documents referenced in paragraph "171" speak for themselves.

172. Defendant denies each and every allegation set forth in Paragraph "172" of the FAC, except states that any documents referenced in paragraph "172" speak for themselves.

173. Defendant denies each and every allegation set forth in Paragraph "173" of the FAC, except admits that there was a conversation between Dr. Grimaldi, Plaintiff and the male student.

174. Defendant denies each and every allegation set forth in Paragraph "174" of the FAC, except admits that on or about January 28, 2020, there was a conversation between Ms. Cristella, Mr. Donovan, Dr. Grimaldi and the male student's parents.

175. Defendant denies each and every allegation set forth in Paragraph "175" of the FAC, except admits that on or about January 29, 2020, there was a conversation between Ms. Cristella, Mr. Deards and Plaintiff regarding a concern about a conversation with a male student.

176. Defendant denies each and every allegation set forth in Paragraph "176" of

the FAC, except admits that on or about January 29, 2020, there was a conversation between Ms. Cristella, Mr. Deards and Plaintiff regarding a concern about a conversation with a male student.

177. Defendant denies each and every allegation set forth in Paragraph “177” of the FAC, except admits that on or about January 29, 2020, there was a conversation between Ms. Cristella, Mr. Deards and Plaintiff regarding a concern about a conversation with a male student.

178. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph “178” of the FAC.

179. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph “179” of the FAC.

180. Defendant denies each and every allegation set forth in Paragraph “180” of the FAC.

181. Defendant admits the allegations set forth in Paragraph “181” of the FAC.

182. Defendant denies each and every allegation set forth in Paragraph “182” of the FAC, except admits that Defendant conducted an investigation into allegations involving Plaintiff.

183. Defendant denies each and every allegation set forth in Paragraph “183” of the FAC, except admits that Plaintiff emailed in sick on multiple consecutive days and states that any documents referenced in Paragraph “183” speak for themselves.

184. Defendant denies each and every allegation set forth in Paragraph “184” of the FAC.

185. Defendant denies each and every allegation set forth in Paragraph “185” of the FAC.

186. Defendant denies each and every allegation set forth in Paragraph “186” of

the FAC.

187. Defendant denies each and every allegation set forth in Paragraph “187” of the FAC.

**As to the allegations that “Ms. Daniels’ attempts to find a position in a school without a hostile work environment based on sex is thwarted by Mr. Donovan for retaliatory reasons.”**

188. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph “188” of the FAC.

189. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph “189” of the FAC.

190. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph “190” of the FAC.

191. Defendant denies each and every allegation set forth in Paragraph “191” of the FAC, except admits that Mr. Donovan was at the NYSAIS Job Fair on or about February 22, 2020.

192. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph “192” of the FAC.

193. Defendant denies each and every allegation set forth in Paragraph “193” of the FAC.

194. Defendant denies each and every allegation set forth in Paragraph “194” of the FAC.

195. Defendant denies each and every allegation set forth in Paragraph “195” of the FAC.

196. Defendant admits the allegations set forth in Paragraph “196” of the FAC.

197. Defendant denies each and every allegation set forth in Paragraph “197” of the FAC, except admits that Plaintiff resigned her position with Defendant.

198. Defendant denies each and every allegation set forth in Paragraph “198” of the FAC, except states that any documents referenced in paragraph “198” speak for themselves.

199. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph “199” of the FAC.

200. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph “200” of the FAC.

201. Defendant denies knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph “201” of the FAC, except admits that Plaintiff emailed Mr. Donovan that he would be contacted about a position for which Plaintiff had applied and that Mr. Donovan thanked Plaintiff for informing him. Defendant further states that any documents and/or communications referenced in paragraph “201” speak for themselves.

202. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph “202” of the FAC.

203. Defendant denies each and every allegation set forth in Paragraph “203” of the FAC.

204. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph “204” of the FAC.

**AS TO “CAUSES OF ACTION**  
**COUNT 1**  
**Civil Rights Act of 1964 § 701 et seq.**  
**42 U.S.C.A. § 2000e et seq.**  
**Hostile Work Environment Because of Sex”**

205. Defendant repeats and realleges its responses to Paragraphs “1” through

“204” of the FAC inclusive, as though set forth fully herein in response to Paragraph “205” of the FAC.

206. Paragraph “206” of the FAC contains conclusions of law to which no response is required. To the extent a response may be required, Defendant denies each and every allegation set forth in Paragraph “206” of the FAC.

207. Paragraph “207” of the FAC contains conclusions of law to which no response is required. To the extent a response may be required, Defendant denies each and every allegation set forth in Paragraph “207” of the FAC.

208. Defendant denies each and every allegation set forth in Paragraph “208” of the FAC.

209. Defendant denies each and every allegation set forth in Paragraph “209” of the FAC.

210. Defendant denies each and every allegation set forth in Paragraph “210” of the FAC.

211. Defendant denies each and every allegation set forth in Paragraph “211” of the FAC.

212. Defendant denies each and every allegation set forth in Paragraph “212” of the FAC.

213. Defendant denies each and every allegation set forth in Paragraph “213” of the FAC.

214. Defendant denies each and every allegation set forth in Paragraph “214” of the FAC.

215. Defendant denies each and every allegation set forth in Paragraph “215” of

the FAC.

216. Defendant denies each and every allegation set forth in Paragraph “216” of the FAC.

217. Defendant denies each and every allegation set forth in Paragraph “217” of the FAC.

218. Defendant denies each and every allegation set forth in Paragraph “218” of the FAC.

**AS TO “COUNT 2**  
**42 U.S.C. §2000e, et seq.**  
**Retaliation”**

219. Defendant repeats and realleges its responses to Paragraphs “1” through “218” of the FAC inclusive, as though set forth fully herein in response to Paragraph “219” of the FAC.

220. Defendant denies each and every allegation set forth in Paragraph “220” of the FAC.

221. Paragraph “221” of the FAC contains conclusions of law to which no response is required. To the extent a response may be required, Defendant denies each and every allegation set forth in Paragraph “221” of the FAC.

222. Defendant denies each and every allegation set forth in Paragraph “222” of the FAC.

223. Defendant denies each and every allegation set forth in Paragraph “223” of the FAC.

224. Defendant denies each and every allegation set forth in Paragraph “224” of the FAC.

225. Defendant denies each and every allegation set forth in Paragraph “225” of the FAC.

226. Defendant denies each and every allegation set forth in Paragraph “226” of the FAC.

**AS TO “COUNT 3**  
**Civil Rights Act of 1964 § 701 et seq.**  
**42 U.S.C.A. §2000e et seq.**  
**Constructive Discharge Because of Sex”**

227. Defendant repeats and realleges its responses to Paragraphs “1” through “226” of the FAC inclusive, as though set forth fully herein in response to Paragraph “227” of the FAC.

228. Paragraph “228” of the FAC contains conclusions of law to which no response is required. To the extent a response may be required, Defendant denies each and every allegation set forth in Paragraph “228” of the FAC.

229. Defendant denies each and every allegation set forth in Paragraph “229” of the FAC.

230. Defendant denies each and every allegation set forth in Paragraph “230” of the FAC.

231. Defendant denies each and every allegation set forth in Paragraph “231” of the FAC.

232. Defendant denies each and every allegation set forth in Paragraph “232” of the FAC.

233. Defendant denies each and every allegation set forth in Paragraph “233” of the FAC.

234. Defendant denies each and every allegation set forth in Paragraph “234” of

the FAC.

235. Defendant denies each and every allegation set forth in Paragraph “235” of the FAC.

236. Defendant denies each and every allegation set forth in Paragraph “236” of the FAC.

237. Defendant denies each and every allegation set forth in Paragraph “237” of the FAC.

238. Defendant denies each and every allegation set forth in Paragraph “238” of the FAC.

**AS TO “COUNT 4**  
**New York State Human Rights Law**  
**N.Y. Exec. Law §290 et seq.**  
**Hostile Work Environment Because of Sex, Sexual Orientation and Gender Identity”**

239. Defendant repeats and realleges its responses to Paragraphs “1” through “238” of the FAC inclusive, as though set forth fully herein in response to Paragraph “239” of the FAC.

240. Paragraph “240” of the FAC contains conclusions of law to which no response is required. To the extent a response may be required, Defendant denies each and every allegation set forth in Paragraph “240” of the FAC.

241. Defendant denies each and every allegation set forth in Paragraph “241” of the FAC.

242. Defendant denies each and every allegation set forth in Paragraph “242” of the FAC.

243. Defendant denies each and every allegation set forth in Paragraph “243” of the FAC.

244. Defendant denies each and every allegation set forth in Paragraph “244” of the FAC.

245. Defendant denies each and every allegation set forth in Paragraph “245” of the FAC.

246. Defendant denies each and every allegation set forth in Paragraph “246” of the FAC.

247. Defendant denies each and every allegation set forth in Paragraph “247” of the FAC.

248. Defendant denies each and every allegation set forth in Paragraph “248” of the FAC.

249. Defendant denies each and every allegation set forth in Paragraph “249” of the FAC.

250. Defendant denies each and every allegation set forth in Paragraph “250” of the FAC.

251. Defendant denies each and every allegation set forth in Paragraph “251” of the FAC.

**AS TO “COUNT 5**  
**New York State Human Rights Law**  
**N.Y. Exec. Law §290 et seq.**  
**Constructive Discharge Because of Sex, Sexual Orientation and Gender Identity”**

252. Defendant repeats and realleges its responses to Paragraphs “1” through “251” of the FAC inclusive, as though set forth fully herein in response to Paragraph “252” of the FAC.

253. Paragraph “253” of the FAC contains conclusions of law to which no response is required. To the extent a response may be required, Defendant denies each and every

allegation set forth in Paragraph “253” of the FAC.

254. Defendant denies each and every allegation set forth in Paragraph “254” of the FAC.

255. Defendant denies each and every allegation set forth in Paragraph “255” of the FAC.

256. Defendant denies each and every allegation set forth in Paragraph “256” of the FAC.

257. Defendant denies each and every allegation set forth in Paragraph “257” of the FAC.

258. Defendant denies each and every allegation set forth in Paragraph “258” of the FAC.

259. Defendant denies each and every allegation set forth in Paragraph “259” of the FAC.

260. Defendant denies each and every allegation set forth in Paragraph “260” of the FAC.

261. Defendant denies each and every allegation set forth in Paragraph “261” of the FAC.

**AS TO “COUNT 6**  
**NYSHRL §290 et seq.**  
**Retaliation”**

262. Defendant repeats and realleges its responses to Paragraphs “1” through “261” of the FAC inclusive, as though set forth fully herein in response to Paragraph “262” of the FAC.

263. Paragraph “263” of the FAC contains conclusions of law to which no

response is required. To the extent a response may be required, Defendant denies each and every allegation set forth in Paragraph “263” of the FAC.

264. Defendant denies each and every allegation set forth in Paragraph “264” of the FAC.

265. Defendant denies each and every allegation set forth in Paragraph “265” of the FAC.

266. Defendant denies each and every allegation set forth in Paragraph “266” of the FAC.

267. Defendant denies each and every allegation set forth in Paragraph “267” of the FAC.

268. Defendant denies each and every allegation set forth in Paragraph “268” of the FAC.

**AS TO “COUNT 7**  
**New York City Human Rights Law**  
**NYCHRL § 8-107, et seq.**  
**Hostile Work Environment Because of Sex, Sexual Orientation and Gender Identity”**

269. Defendant repeats and realleges its responses to Paragraphs “1” through “268” of the FAC inclusive, as though set forth fully herein in response to Paragraph “269” of the FAC.

270. Paragraph “270” of the FAC contains conclusions of law to which no response is required. To the extent a response may be required, Defendant denies each and every allegation set forth in Paragraph “270” of the FAC.

271. Paragraph “271” of the FAC contains conclusions of law to which no response is required. To the extent a response may be required, Defendant denies each and every allegation set forth in Paragraph “271” of the FAC.

272. Defendant denies each and every allegation set forth in Paragraph “272” of the FAC.

273. Defendant denies each and every allegation set forth in Paragraph “273” of the FAC.

274. Defendant denies each and every allegation set forth in Paragraph “274” of the FAC.

275. Defendant denies each and every allegation set forth in Paragraph “275” of the FAC.

276. Defendant denies each and every allegation set forth in Paragraph “276” of the FAC.

277. Defendant denies each and every allegation set forth in Paragraph “277” of the FAC.

278. Defendant denies each and every allegation set forth in Paragraph “278” of the FAC.

279. Defendant denies each and every allegation set forth in Paragraph “279” of the FAC.

280. Defendant denies each and every allegation set forth in Paragraph “280” of the FAC.

281. Defendant denies each and every allegation set forth in Paragraph “281” of the FAC.

**AS TO “COUNT 8**  
**New York City Human Rights Law**  
**NYCHRL § 8-107, et seq.**  
**Constructive Discharge Because of Sex and/or Gender Identity”**

282. Defendant repeats and realleges its responses to Paragraphs “1” through

“281” of the FAC inclusive, as though set forth fully herein in response to Paragraph “282” of the FAC.

283. Paragraph “283” of the FAC contains conclusions of law to which no response is required. To the extent a response may be required, Defendant denies each and every allegation set forth in Paragraph “283” of the FAC.

284. Defendant denies each and every allegation set forth in Paragraph “284” of the FAC.

285. Defendant denies each and every allegation set forth in Paragraph “285” of the FAC.

286. Defendant denies each and every allegation set forth in Paragraph “286” of the FAC.

287. Defendant denies each and every allegation set forth in Paragraph “287” of the FAC.

288. Defendant denies each and every allegation set forth in Paragraph “288” of the FAC.

289. Defendant denies each and every allegation set forth in Paragraph “289” of the FAC.

290. Defendant denies each and every allegation set forth in Paragraph “290” of the FAC.

**AS TO “COUNT 9**  
**NYCHRL §8-101(a)**  
**Retaliation”**

291. Defendant repeats and realleges its responses to Paragraphs “1” through “290” of the FAC inclusive, as though set forth fully herein in response to Paragraph “291” of the

FAC.

292. Defendant denies each and every allegation set forth in Paragraph “292” of the FAC.

293. Defendant denies each and every allegation set forth in Paragraph “293” of the FAC.

294. Defendant denies each and every allegation set forth in Paragraph “294” of the FAC.

295. Defendant denies each and every allegation set forth in Paragraph “295” of the FAC.

296. Defendant denies each and every allegation set forth in Paragraph “296” of the FAC.

297. Defendant denies each and every allegation set forth in Paragraph “297” of the FAC.

298. Defendant denies each and every allegation set forth in Paragraph “298” of the FAC.

299. Defendant denies each and every allegation set forth in Paragraph “299” of the FAC.

**AS TO “JURY DEMAND”**

300. Defendant admits that Plaintiff requests a jury trial on all issues to be tried but denies that Plaintiff is entitled to a trial by a jury.

**AS TO PLAINTIFF’S “WHEREFORE” CLAUSE**

Defendant denies all allegations and any claim for relief set forth in the “WHEREFORE” clause to the FAC, including sub-paragraphs “A” through “G” and specifically

deny that Plaintiff is entitled to any of the relief she seeks.

### **GENERAL DENIAL**

Defendant denies all claims and allegations not unequivocally admitted herein.

### **AFFIRMATIVE AND OTHER DEFENSES**

Without assuming the burden of proof as to any of the following defenses where the law does not impose such burden on Defendant, Defendant asserts the following defenses:

#### **FIRST DEFENSE**

Plaintiff's FAC fails, in whole or in part, to state a claim upon which relief can be granted.

#### **SECOND DEFENSE**

Plaintiff's claims are barred, in whole or in part, by the applicable statutes of limitations.

#### **THIRD DEFENSE**

Any and all actions taken by Defendant with regard to Plaintiff were based on legitimate, non-discriminatory and non-retaliatory business reasons, and would have been taken regardless of Plaintiff's sex, gender, gender identity, sexual orientation and/or alleged protected activity.

#### **FOURTH DEFENSE**

Plaintiff's claims for discrimination and retaliation are barred and/or any recovery of damages is precluded, in whole or in part, because Defendant exercised reasonable care to prevent and promptly correct any alleged discriminatory or retaliatory behavior.

#### **FIFTH DEFENSE**

Plaintiff's claims for discrimination and retaliation are barred and/or any recovery

of damages is precluded because Plaintiff unreasonably failed to take advantage of Defendant's preventive and/or corrective opportunities or to otherwise avoid her alleged harm.

**SIXTH DEFENSE**

Plaintiff's claims for damages are barred, in whole or in part, because she failed to use reasonable diligence to mitigate and/or minimize her alleged damages.

**SEVENTH DEFENSE**

Plaintiff's claims are barred, in whole or in part, by the doctrines of laches, estoppel, waiver, the after-acquired evidence doctrine, and/or other equitable defenses.

**EIGHTH DEFENSE**

Plaintiff's claims are barred, in whole or in part, because she did not suffer any adverse employment action(s) during her employment with Defendant or after the cessation thereof.

**NINTH DEFENSE**

While Defendant denies that Plaintiff's claims have any merit, to the extent Plaintiff suffered any adverse action, Plaintiff's claims fail, in whole or in part, because the conduct of which Plaintiff complains was neither severe nor pervasive enough to constitute a hostile work environment as a matter of law, and amounts to nothing more than petty slights and trivial inconveniences.

**TENTH DEFENSE**

Plaintiff's claims are barred, in whole or in part, because she did not suffer damages attributable to any allegedly wrongful conduct by Defendant and/or because any damages or injuries were caused by Plaintiff's own conduct or the conduct of third parties.

**ELEVENTH DEFENSE**

Plaintiff is not entitled to recover any punitive damages against Defendant because, *inter alia*, Defendant acted in good faith and did not commit, ratify, authorize, or acquiesce in any malicious, willful, or reckless acts or omissions.

**TWELFTH DEFENSE**

Assuming, arguendo, that Plaintiff is able to establish that her sex, gender, gender identity, sexual orientation or retaliation played any part in any decisions of which she complains in the FAC, Defendant would have made the same decisions even in the absence of any unlawful consideration.

**THIRTEENTH DEFENSE**

Plaintiff's claims for damages under Title VII are limited by the applicable statutory damage caps on punitive and compensatory damages as a matter of law.

**FOURTEENTH DEFENSE**

To the extent that Plaintiff engaged in acts of misconduct prior to or during her employment, which, if known, would have resulted in the denial of employment or termination of her employment, any relief awarded to Plaintiff should be reduced, in whole or in part, because Plaintiff engaged in such misconduct.

**FIFTEENTH DEFENSE**

Defendant reserves the right to amend its Answer to raise additional affirmative or other defenses or to pursue any available counterclaim(s) against Plaintiff as those claims or defenses become known during the litigation.

**WHEREFORE**, Defendant respectfully requests that this Court:

- a. Dismiss Plaintiff's FAC in its entirety, with prejudice;
- b. Deny each and every demand, claim, and prayer for relief contained therein;
- c. Award Defendant its reasonable attorneys' fees and costs incurred in defending against this action; and
- d. Grant such other and further relief to Defendant as the Court deems just and proper.

Respectfully submitted,

JACKSON LEWIS P.C.  
44 South Broadway, 14<sup>th</sup> Floor  
White Plains, New York 10601  
(914) 872-8060



By:

\_\_\_\_\_  
Michelle E. Phillips  
Brian A. Bodansky

*ATTORNEYS FOR DEFENDANT*

Dated: May 27, 2021  
White Plains, New York

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

ALAINA DANIELS,

Plaintiff,

-against-

SPEYER LEGACY SCHOOL,

Defendant.

Case No.: 21-CV-1747 (DLC)

**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the foregoing Answer To Plaintiff's First Amended Complaint has been served via ECF this 27th day of May, 2021, on counsel for Plaintiff in the above-referenced matter at the following address:

Jillian T. Weiss  
LAW OFFICE OF JILLIAN T. WEISS  
442 15th Street No. 1R  
Brooklyn, New York 11215  
[jweiss@jtweisslaw.com](mailto:jweiss@jtweisslaw.com)  
*Attorney for Plaintiff*

/s/ Brian A. Bodansky

Brian A. Bodansky