

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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YU PRIDE ALLIANCE, MOLLY MEISELS,
DONIEL WEINREICH, AMITAI MILLER,
and ANONYMOUS,

Plaintiffs,

-against-

YESHIVA UNIVERSITY, VICE PROVOST
CHAIM NISSEL, and PRESIDENT ARI
BERMAN,

Defendants.

-----X

Index No.: 154010/2021

Plaintiffs Designate New York
County as the Place of Trial

SUMMONS

Plaintiff's Address:
c/o Emery Celli Brinckerhoff Abady
Ward & Maazel LLP
600 Fifth Avenue, 10th Floor
New York, NY 10020

To the above-named Defendants:

PLEASE TAKE NOTICE THAT YOU ARE HEREBY SUMMONED to answer the Complaint in this action and to serve a copy of your answer on the Plaintiffs' attorneys within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York).

YOU ARE HEREBY NOTIFIED THAT should you fail to answer, a judgment will be entered against you by default for the relief demanded in the complaint.

Dated: April 26, 2021
New York, New York

EMERY CELLI BRINCKERHOFF ABADY
WARD & MAAZEL LLP

By: /s/ Katherine Rosenfeld
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and

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President Ari Berman
c/o Yeshiva University Office of the General Counsel

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COMPLAINT

JURY DEMAND

Plaintiffs YU Pride Alliance, Molly Meisels, Doniel Weinreich, Amitai Miller, and John Doe¹, by and through their attorneys Emery Celli Brinckerhoff Abady Ward & Maazel LLP, for their Complaint allege as follows:

PRELIMINARY STATEMENT

1. Plaintiff YU Pride Alliance is an unofficial undergraduate student organization for LGBTQ² students and their allies at Yeshiva University (“YU”). Plaintiffs Miller, Weinreich, Meisels, and Doe are four current and former YU undergraduate students. Yeshiva University is a private research university in New York City that enrolls more than 3,000 undergraduate students, and “offer[s] a unique dual curriculum comprising Jewish studies and liberal arts and sciences courses.” For years, and with increasing urgency since 2018, YU undergraduates have requested that the University approve an official LGBTQ student organization. YU has refused

¹ Throughout the Complaint, John Doe refers to Plaintiff Anonymous.

² LGBTQ refers to people who are lesbian, gay bisexual, trans, queer, or other non-cisgender or non-heterosexual identities. *What is LGBTQ*, The Lesbian, Gay, Bisexual & Transgender Community Center, <https://gaycenter.org/about/lgbtq/>.

to permit the students to form a recognized club for LGBTQ students. On three occasions in 2019 and 2020, YU denied official recognition to an undergraduate student organization seeking to form an LGBTQ student club, only because of the group's LGBTQ status, membership, and mission of fostering a safe and inclusive community for LGBTQ students. YU will not allow a student club with the term "LGBT" or "gay" in the title. There will not be a club, the administration announced in September 2020, because it would "cloud" the university's "nuanced" position on the treatment of LGBTQ students.

2. On a tangible level, YU's refusal to officially recognize the club deprives Plaintiff the YU Pride Alliance and its members of the important benefits enjoyed by YU's 116 other recognized student organizations, such as the use of campus facilities for meetings (the Alliance must meet off-campus), funding for its activities (the Alliance must fundraise outside the university for its own events, speakers, and snacks), advertising for events in student email blasts and bulletin boards (the Alliance relies on social media and word-of-mouth), and participation in club fairs for incoming students (the Alliance cannot put up a table and greet incoming students along with its peer clubs).

3. Beyond depriving students of access to these tangible benefits of student clubs, YU's refusal to recognize the YU Pride Alliance sends a stark and painful message of rejection and non-belonging to its LGBTQ students and their allies. By its acts of intentional discrimination, YU has inflicted and is continuing to inflict grave dignitary, emotional, and psychological harms on these college students, and indeed on all its students, who need belonging, safety, community, and support. An official LGBTQ student club is not only Plaintiffs' right as students, it is necessary to their health and well-being on campus. Students may feel isolated and unwelcome on campus, and do not know where to go for resources,

guidance, or camaraderie. A club will provide these students with a safe space to create a community and support each other as they navigate the challenges of being LGBTQ Jewish individuals. It will give the students access to funding and communication resources so they may hold and publicize events addressing LGBTQ issues and build relationships with other LGBTQ students and allies.

4. YU's conduct is not only damaging to its students, it is blatantly illegal under the New York City Human Rights Law. Worse, YU knows that it is. 25 years ago, YU retained a preeminent law firm to advise it on this precise issue, namely, whether the institution had to officially recognize an LGBTQ student organization. YU was advised by its lawyers that there was "no credible legal argument" to ban the student group. YU has privately acknowledged for decades that it cannot legally discriminate against LGBTQ student groups: "[YU] is subject to the human rights ordinance of the City of New York *Under this law, YU cannot ban gay student clubs. It must make facilities available to them in the same manner as it does to other student groups,*" the University wrote in a 1995 Fact Sheet titled "Gay Student Organizations."

5. YU's legal analysis is as correct today as it was in 1995. While YU seeks to provides undergraduates with a dual curriculum of Jewish scholarship and academics,³ it is bound by the New York City Human Rights Law ("NYCHRL"), just like any other university in the City. Fifty years ago, YU elected to register as a non-sectarian corporation to benefit from government funding that was unavailable to entities organized as religious corporations. Since then, it has received hundreds of millions of dollars in New York State funds and benefits. Because it is a secular institution, it cannot pick and choose which New York City laws apply to

³ Yeshiva University, 2018 Return of Organization Exempt from Income Tax (Form 990).

it and which do not. YU is a quintessential place of public accommodation and it may not discriminate against students.

6. Plaintiffs have been waging a difficult campaign for many years to challenge YU's obstinate refusal to follow the law. Still, YU refuses to change. Most recently in September 2020, YU issued a public statement claiming to support tolerance but explicitly rejecting the existence of LGBTQ student clubs on campus.

7. Yeshiva University will not recognize an official LGBTQ student club on its campus despite students' demonstrated need, despite its own guidance and policies, despite students' patient advocacy asking it to change, and despite its obligation to do so at law. Plaintiffs bring this action to require YU to comply with the law and recognize the YU Pride Alliance as an official student club with equal club access to the University's facilities and benefits as the 116 other student clubs on campus, and for other relief to remedy YU's years of discrimination.

PARTIES

8. Plaintiff Yeshiva University Pride Alliance ("YU Pride Alliance" or "Alliance") is an unofficial group of current undergraduate students at Yeshiva University who seek to create an official student club that will provide a supportive space on campus for all students, of all sexual orientations and gender identities, to feel respected, visible, and represented and foster awareness and sensitivity to the unique experience of being a LGBTQ+ person at YU and in the Orthodox community. YU Pride Alliance is comprised exclusively of full-time students in good standing at YU. YU Pride Alliance is governed by an eight-person student board. YU Pride Alliance was denied recognition as an official student club by Yeshiva University, and denied access to the privileges and resources provided to official student clubs, by the Yeshiva

University administration. YU Pride Alliance seeks recognition from Yeshiva University as a student club for the 2021-2022 academic year.

9. Plaintiff Molly Meisels is a natural person and a citizen of the State of California. They are a former student at Yeshiva University during the relevant time period until January 2021 and the former President of the YU Pride Alliance. They identify as LGBTQ and use they/her pronouns.

10. Plaintiff Doniel Weinreich is a natural person and a citizen of the State of New Jersey. He is a former full-time student at Yeshiva University during the relevant time period until May 2020. Mr. Weinreich was also a board member of the YU Pride Alliance. He is an ally of LGBTQ students and uses he/him pronouns.

11. Plaintiff Amitai Miller is a natural person and a citizen of the State of Texas. He was a student at Yeshiva University during the relevant time period until May 2020 and was Student Council President during the 2018-2019 school year. He identifies as LGBTQ and uses he/him pronouns.

12. Plaintiff John Doe is a natural person and a citizen of the State of New York. He is a current full-time student in good standing at Yeshiva University. He has been a member of the YU Pride Alliance since August 2020 and is currently serving as a member on its board. He identifies as LGBTQ and uses he/him pronouns. He seeks to participate as a member of the YU Pride Alliance as a recognized student club for the 2021-2022 academic year.

13. Defendant Yeshiva University ("Yeshiva" or "YU") is registered with the New York State Department of State, Division of Corporations as a domestic not-for-profit corporation. It is a provider of a public accommodation as defined by § 8-102 of the Administrative Code of the City of New York (the "Code").

14. Defendant Dr. Chaim Nissel (“Nissel”) is an employee and/or agent of Defendant Yeshiva and has been employed as the Vice Provost of Student Affairs from August 2020 to the present. Defendant Nissel was previously employed as the University Dean of Students from 2012 to August 2020. He is also the University’s Title IX Coordinator.

15. Defendant Rabbi Dr. Ari Berman (“Berman”) is an employee and/or agent of Defendant Yeshiva and is employed as its President.

JURISDICTION AND VENUE

16. This Court, as a court of general jurisdiction, has subject matter jurisdiction over and is competent to adjudicate the causes of action set forth in this Complaint.

17. This Court has jurisdiction pursuant to Article 30 of the New York State Civil Practice Laws and Rules (“CPLR”) § 3001 to grant declaratory relief and § 6001 to grant injunctive relief.

18. Venue properly lies in this Court pursuant to Article 5 of the New York Civil Practice Law and Rules, Section 503, as Defendant Yeshiva University is a resident of New York County and a substantial part of the events giving rise to the claim arose in New York County.

STATEMENT OF FACTS

19. Defendant Yeshiva University is a private, non-profit institution of higher education.

20. Defendant Yeshiva University has been incorporated as a domestic not-for-profit corporation subject to the New York Education Law since December 15, 1969.

21. Defendant Yeshiva University receives state and federal financial aid and is registered as a charitable 501(c)(3) organization.

22. Defendant Yeshiva University is eligible to receive certain financial support from New York State because it is registered as an educational corporation, rather than a religious one.

23. YU has obtained millions of dollars in tax-exempt bond financing through the Dormitory Authority of the State of New York (“DASNY”). For example, in 2011 Defendant Yeshiva University issued a \$90 million bond through the DASNY. DASNY prohibits bond issuers from using these funds for a religious purpose.

24. Founded in the late 19th century, Yeshiva describes itself as “the country’s oldest and most comprehensive institution combining Jewish scholarship with academic excellence and achievement in the liberal arts and sciences, medicine, law, business, social work, psychology, Jewish studies, education, and research.”

25. YU enrolls more than 3,000 undergraduate students at Yeshiva College, Stern College for Women, the Sy Syms School of Business, the Katz School of Science and Health, and the S. Daniel Abraham Program in Israel.

26. As of the Fall 2020 semester, YU recognized 116 undergraduate student clubs indicative of the broad interests of its student body.

27. YU’s 116 recognized student groups organize around interests and identities as diverse as poetry and private equity, video games and the outdoors, and College Democrats and College Republicans, as well as across broad categories such as “Art,” “Business,” “Health and Wellness,” “Sports and Fitness,” and “Politics and Activism.”

28. YU recognizes several cultural and affinity groups for students such as the Sephardic Club, YU Europeans, and the International Club.

29. The formal process for forming a student club is straightforward. Students may submit a club application in accordance with the procedures of the Wilf Campus, the Beren Campus, or both campuses, depending on where they seek to have a club.

30. Under Article III Section 4:3 of the Wilf Campus Undergraduate Student Body Constitution (“Wilf Constitution”), a “group of students wishing to form a club affiliated with the Student Government and Yeshiva University shall submit to the Yeshiva Student Union (“YSU”) Vice President of Clubs a petition to that effect containing the name of the proposed club, a statement of its purpose and goals, the specific Student Government Association or Council under whose auspices it seeks to operate, no fewer than twenty-five signatures of students, and the signature of a Faculty Advisor.” The Wilf Student Councils’ Club Rules and Guidelines reiterates these requirements.

31. Under the Wilf Constitution, the YSU Vice President of Clubs presents club applications to the five voting members of the student General Assembly. The student General Assembly then approves each application by a majority vote.

32. Under Article VII Section I.B of the Constitution of the Beren Campus Undergraduate Student Government Association (“Beren Constitution”), “applications for new club status shall be made [to the applicable student council] during an agreed upon two week period within the first three weeks of each academic semester.”

33. Under the Beren Constitution, “[a]fter the application process closes, the applicable council shall hold a ‘presentation day’ within the following two weeks, in which each new club seeking club status shall explain to the council what their request entails and why it should be granted.”

34. While Yeshiva University technically places approval of student clubs within the purview of the student government, that delegation of responsibility is in practice limited.

35. Yeshiva University retains the discretion and authority to override the decisions of student governments to accept or reject a student club.

36. Yeshiva University from time to time exercises its discretion to recognize or reject the student governments' recommendations with respect to the approval or denial of certain student clubs.

37. Defendant Yeshiva University has intentionally opposed and refused to recognize an undergraduate LGBTQ student organization at its constituent schools for years.⁴

38. YU denied official university recognition to an undergraduate LGBTQ student organization three times in 2019 and 2020 alone. These denials trace back more than a decade. One of the first public iterations of an LGBTQ club at YU, the "Tolerance Club," officially formed in 2009. In 2009, the Tolerance Club held an event called "Being Gay in the Modern Orthodox World" which attracted approximately 700 people from the YU community.⁵

39. At the event, YU students explained that the school's atmosphere of silence surrounding issues of LGBTQ identity was "agony" inducing and forced students to maintain silence about their own LGBTQ identities as a survival mechanism.

40. Upon information and belief, the Tolerance Club disbanded shortly after this event because of the significant pressure it faced from the YU administration.

⁴ See Carolyn J. Mooney, *Religion vs. Gay Rights – Yeshiva U. Debates Whether Recognition of Gay Groups Threatens Its Identity*, THE CHRONICLE (Nov. 16, 1994) <https://www.chronicle.com/article/Religion-vs-Gay-Rights/85236>. Many of Yeshiva University's graduate and professional schools have permitted graduate LGBTQ student groups to form. For example, the Benjamin N. Cardozo School of Law, a graduate affiliate of Yeshiva University, recognizes the law student group OUTlaw as an official LGBTQ student group. The Albert Einstein College of Medicine had also recognized an LGBTQ student group for decades prior to the College's separation from Yeshiva University in 2015. The group continues to exist at the College as "EAGBLT."

⁵ E.B. Solomont, *YU Holds Discussion on Homosexuality*, JERUSALEM REPORT (Dec. 24, 2009), <https://www.jpost.com/Jewish-World/YU-holds-discussion-on-homosexuality>.

1) SPRING 2019: YU REFUSES TO RECOGNIZE THE GAY-STRAIGHT ALLIANCE, A PRIDE ALLIANCE PREDECESSOR

41. In 2018, Plaintiff Miller was elected President of the Yeshiva College Student Association (“YCSA”) for the 2018-2019 school year.

42. In his capacity as YSCA President, Plaintiff Miller met with YU LGBTQ students to understand the difficulties they faced on campus due to their LGBTQ identities. The students described to Miller their feelings of isolation, rejection, and fear.

43. During the fall of 2018 and the spring 2019 semester, Plaintiff Miller, along with two other Student Council Presidents, met repeatedly with Defendant Nissel to discuss ways to make LGBTQ students feel more welcome on campus. Miller discussed the creation of an official GSA to host LGBTQ events and speakers on campus and create a safe atmosphere for LGBTQ students on campus.⁶ At these meetings, Nissel declined to give Miller concrete answers and said only that he needed to speak to more senior administrators.

44. In September or October 2018, Plaintiff Meisels met with Office of Student Life (“OSL”) Director Josh Weisberg and Defendant Nissel to discuss their request for the formation of an official LGBTQ student group such as a Gay Straight Alliance (“GSA”). Weisburg suggested that they instead modify an existing official student club for minority identity students called the “Diversity Club.”

45. On or about February 3, 2019, a student activist, along with several other students, submitted a formal application to the Student Council presidents for GSA club approval. In the application, the stated purpose of the club was “to provide a safe space for

⁶ Jacob Stone, *Former Student Leaders Detail Past Efforts for LGBTQ Inclusion*, YU Commentator (Nov. 24, 2019), <https://yucommentator.org/2019/11/former-student-leaders-detail-past-efforts-for-lgbtq-inclusion/>; Lilly Gelman, *Enough is Enough: Yeshiva University Students Protest LGBTQ Discrimination*, Moment Mag. (Aug. 29, 2019), <https://momentmag.com/enough-is-enough-yeshiva-university-students-protest-lgbtq-discrimination-on-campus/>.

students to meet, support each other, and talk about issues related to the intersection of sexual orientation and Jewish identity.”

46. On or about February 5, 2019, Plaintiff Miller and other students met with Defendant Nissel to discuss the GSA’s club application. During the meeting, Defendant Nissel expressed that the GSA would be allowed to form, as long as it was not called “Gay Straight Alliance” and did not include the terms “LGBT,” “queer,” or “gay” in the title. Defendant Nissel requested that the club’s description be sent to him once the club made its application.

47. On February 13, 2019, the students proposed to Defendant Nissel that the GSA Club could be called “Ahava” (the Hebrew word for “love”). In response, Defendant Nissel sent a description of the “Jewish Activism Club,” which mentioned LGBTQ inclusion along with numerous other topics in its mission statement.

48. Defendant Nissel’s email stated that the existence of the Jewish Activism Club should negate the need for a GSA.

49. In or around early to mid-February of 2019, the Student Council Presidents approved the GSA application.

50. In or around late February 2019, Defendant Nissel verbally informed Plaintiff Miller that an LGBTQ club would not be allowed to form, stating, in sum and substance, that while a club addressing general student tolerance on campus would be allowed, a club specifically addressing LGBTQ inclusion would not.

51. After receiving this rejection, Plaintiff Miller emailed Defendant President Berman to arrange a meeting to discuss why the administration had rejected the GSA’s application.

52. Plaintiff Miller met with Defendant Berman and then-Special Advisor to the President Rabbi Ari Lamm on or about April 15, 2019. At the meeting, Defendant Berman did not address Plaintiff Miller's concerns that YU had blocked the GSA. Defendant Berman focused only on his position of the need for further "dialogue." In a subsequent email, Defendant Berman directed Plaintiff Miller to take his concerns to the OSL.

53. Plaintiff Miller held many additional meetings with YU administrators during his 2018-2019 tenure as YCSA President to request approval for an official LGBTQ club, including Defendant Berman, Senior Vice President Josh Joseph, Dean Rabbi Menachem Penner, and administrators from the OSL. These administrators repeatedly requested that Plaintiff Miller articulate the need for an LGBTQ club, which he did. Yet the administrators still did not allow an LGBTQ club to be formed.

a) YU Interferes with Student Events with an LGBTQ Focus

54. In April 2019, Plaintiff Meisels invited New York State Assembly Member Deborah Glick to speak on campus about her experience as an LGBTQ legislator, and Assembly Member Glick accepted. The OSL approved the event. However, during the planning process for the event, members of the YU administration variously informed Plaintiff Meisels that (1) they did not want her to host the event and provide a space for LGBTQ students to complain to Assembly Member Glick about their experience on campus; and (2) if the event did take place, it could not focus on LGBTQ issues. After Plaintiff Meisels negotiated with the OSL, the OSL allowed the event to move forward under the title, "Overcoming Adversity: Minority Representation in NY Politics." The event was held on May 2, 2019.

2) SPRING 2020: YU REFUSES TO RECOGNIZE THE YU PRIDE ALLIANCE

a) September 2019: The YU Pride Alliance is Formed As an Unofficial Student Group for LGBTQ Students, and Faces Opposition from Yeshiva

55. On September 15, 2019, Plaintiff Meisels, along with other Yeshiva University students, alumni, and other supporters, led and participated in the “We, Too, Are YU” march. The march ended at one of Defendant Yeshiva’s campuses.

56. At the march, Plaintiff Meisels announced the formation of a new LGBTQ student group called the Yeshiva University Pride Alliance (“YU Pride Alliance”) and called on the YU administration to recognize it as an official club.

57. The founding members of the YU Pride Alliance established an eight-person board, headed by a president and vice-president. The outgoing president and vice-president select their successors, while the board members interview and select new board members. The Alliance decided not to keep track of its membership to protect students’ identities.

b) YU Convenes a Panel that Pressures Students to Justify the Need for a Club But Offers Nothing in Return

58. Upon information and belief, in or around the fall of 2019, President Berman convened a panel of rabbis and educators, led by then-Senior Vice President Josh Joseph, and tasked them with fostering initiatives to address matters of inclusion, including LGBTQ-related issues.

59. At meetings with students convened by this panel, YU administrators required the members of the YU Pride Alliance to justify the need for an LGBTQ student club to a degree never required of another student group seeking approval.

60. In response, YU Pride Alliance members repeatedly explained the many benefits to students of having an official club, including creating a physically safe space for LGBTQ

students to meet, fostering feelings of community, improving students' mental health, and encouraging productive conversation regarding LGBTQ identity and religious identity.

61. Despite the YU Pride Alliance's good-faith participation in the panel's meetings, students were not provided with information regarding what YU would do, if anything, to address the YU Pride Alliance's concerns related to LGBTQ inclusivity on campus.

c) December 3, 2019: Senior Vice President Joseph Discourages Official LGBTQ Club

62. On December 3, 2019, members of the YU Pride Alliance, including Plaintiffs Meisels and Weinreich, met with YU Senior Vice President Josh Joseph to discuss the need for an LGBTQ student group on campus.

63. At the meeting, Vice President Joseph stated that he represented the Yeshiva University administrative team, rabbis, and trustees.

64. Upon information and belief, Vice President Joseph was at all times acting at the direction of and as the agent of Defendants Yeshiva University and President Berman.

65. During the meeting, YU Pride Alliance members explicitly requested that YU approve an official LGBTQ student club.

66. YU Pride Alliance members also expressed their concerns regarding homophobia on campus, feelings of being unwelcome and physically unsafe due to their LGBTQ identities, the desire to be able to hold LGBTQ events on campus, and ways to ensure LGBTQ equality and inclusion on campus.

67. Vice President Joseph repeatedly asked YU Pride Alliance members to justify the need for an official LGBTQ student club generally, for a club with a name that indicated its relationship to LGBTQ issues, and for a club that focuses on LGBTQ issues specifically.

68. Consistent with Defendants' position that it would not allow an official, recognized LGBTQ student club to be formed, Vice President Joseph implied that the students

should abandon their efforts for an official LGBTQ club and instead join an umbrella student clubs that addressed a range of issues, only some of which relate to LGBTQ students.

69. Vice President Joseph indicated to the YU Pride Alliance members that he and Defendant Berman believed that some YU administrative officials' views and the Alliance members' views were likely to be "irreconcilable."

70. Vice President Joseph also indicated that Defendants' approach to the YU Pride Alliance and LGBTQ groups more generally was being guided in part by concerns against the clubs from "outside" parties. Joseph also intimated YU Pride Alliance should not publicly challenge Yeshiva University on this issue because it would inappropriately invite outside voices into the conversation.

71. Towards the end of the meeting, a YU Pride Alliance member asked Vice President Joseph to tell the students why the YU Pride Alliance club should not exist. Vice President Joseph stated that he could not.

d) January 30, 2020: YU Pride Alliance Submits a Club Application

72. On or about January 30, 2020, Plaintiff Meisels and the YU Pride Alliance board completed the Wilf and Beren "Club Application Spring 2020" application form on behalf of the YU Pride Alliance and submitted it to the Yeshiva Student Union, the student governing body charged with approving or denying applications in the first instance.

73. The YU Pride Alliance application satisfied the club application requirements under the Wilf and Beren Constitutions.

74. The YU Pride Alliance proposed a club name of "The YU Alliance." It set forth a paragraph-long mission statement. It identified the specific Student Councils under which it sought to operate, including the Yeshiva Student Union, the Yeshiva College Student Association, and the Stern College for Women Student Council. It included a PDF of

approximately 70 student signatures—well over the 25 required— and the signature of its faculty advisor Professor Daniel Kimmel.

75. The mission statement of the YU Pride Alliance as set forth in its Spring 2020 club application was as follows:

The Yeshiva University Alliance is a group of undergraduate YU students hoping to provide a supportive space on campus for all students, of all sexual orientations and gender identities, to feel respected, visible, and represented. Conversation is at the heart of our community, in order to foster awareness and sensitivity to the unique experiences of being a LGBTQ+ person in YU and the Orthodox community, and to advocate for their unconditional inclusion and acceptance. Our space will promote open dialogue for all, regardless of religious views and political affiliations. We ask students to be cognizant and respectful of the beliefs, experiences, and backgrounds of everyone in attendance at our functions. At our events, please do not express assumptions about or hostility towards any person or organization.

76. Upon information and belief, the General Assembly reviewed the Pride Alliance's application for approval alongside all other club applications submitted for that semester.

e) February 9, 2020: Yeshiva Student Council Presidents Abstain from Voting on YU Pride Alliance Club Application

77. After the YU Pride Alliance submitted its application, on or about February 5, 2020, the Yeshiva University administration met with the Student Council Presidents to discuss the new club applications for the semester. Upon information and belief, Plaintiff YU Pride Alliance's club application was the focus of these discussions.

78. Following their meeting with the administrators, on or about February 9, 2020, the Student Council Presidents took the extraordinary step of publicly abstaining from voting on the Pride Alliance's club application.

79. Citing concerns that the club application implicated matters above their position as students, the Student Council presidents emailed a statement to the Yeshiva University

Student Body that they were abstaining from a vote on whether to grant official club status to the YU Pride Alliance and leaving the matter to the YU administration to decide.

80. The email said, “The decision about a club focusing on LBGTQ+ matters at Yeshiva University is too complex and nuanced to be voted on by Student Council Presidents. We are not administrators, we are not rabbis, and we are not subject matter experts.”

81. Upon information and belief, the General Assembly had never before abstained from voting on a club application.

82. With the General Assembly’s abstention, the decision to approve the club’s application was now the responsibility of Defendant Yeshiva University.

83. Upon information and belief, by on or around February 9, 2020, all other new club applicants for the Spring 2020 semester received a decision regarding approval or denial of the club, except for the YU Pride Alliance.

84. On or about February 9, 2020, Plaintiff Weinreich filed a discrimination complaint with YU about the YU Alliance’s Spring 2020 club’s application for official status.

85. On or about February 27, 2020 Plaintiff Weinreich was able to review a copy of YU’s decision in response to his discrimination complaint. YU concluded that no action was required at that time because no official determination regarding the club’s status had been rendered and because another club, the Jewish Activism Club, included a reference to LBGTQ issues in their mission statement. Plaintiff Weinreich was never provided with a copy of the decision and was not permitted to make a copy.

f) YU Denies the YU Pride Alliance’s Spring 2020 Club Application

86. On or about February 11, 2020 Plaintiffs Weinreich and Meisels, along with the other members of the YU Pride Alliance, sent an email to Vice President Joseph requesting that

YU render a decision on the club's application by the next day so that they would be able to participate in the Wilf club fair, which was scheduled for February 12, 2020 on the Wilf campus.

87. The YU Pride Alliance never received any response or answer to their February 11, 2020 request for a decision on the club's application, from Vice President Joseph or any member of the administration.

88. By taking no action in response to the request of the student body to resolve the club's application, Yeshiva denied the YU Pride Alliance's February 2020 application.

89. Lacking the needed approval and recognition from the administration, the YU Pride Alliance could only participate unofficially in the Wilf club fair held on February 12, 2020. Hours before the club fair began, Plaintiff Weinreich informally asked two Student Council presidents if the YU Pride Alliance could set up a table at the fair, despite having no official decision from the YU administration. Both presidents indicated that they would not stop the Pride Alliance from doing so. Alliance members hastily gathered materials and found a space at the fair to set up a table. Throughout the fair, they could not tell students that they were an official club, and they were at risk of being asked to leave at any time. Due to their unofficial status, they were unable to participate in the Beren club fair in any capacity.

90. On February 19, 2020, at the invitation of the Student Council presidents, Plaintiff Weinreich, Meisels, and other members of the YU Pride Alliance attended a meeting between the Student Council presidents and the administration, including Vice President Joseph and Defendant Nissel, to discuss the Alliance's club application.

91. At the meeting, Alliance members directly asked the YU administration if they would approve the YU Pride Alliance as an official club. Vice President Joseph and Defendant Nissel refused to give any answer or timeline.

92. The YU Pride Alliance did not function as a recognized student club for the Spring 2020 semester.

93. During the Spring 2020 semester, YU Pride Alliance members did not meet on campus prior to the coronavirus pandemic, did not have access to University funding for student events, could not advertise any events through official YU channels, and could not host LGBTQ-themed events. During the coronavirus pandemic, YU provided all recognized student groups with access to a premium Zoom account so that students could virtually meet and continue their club activities without the time and streaming limitations of free Zoom accounts; the Alliance had to borrow an account from a sympathetic non-profit group.

94. If YU had recognized the YU Pride Alliance as a student club for the spring 2020 semester, the group planned to hold meet-and-greets on campus where students could meet and discuss their identities, and invite speakers to campus to talk about being Jewish and LGBTQ.

95. Because there was no recognized student club, Meisels and other members of the YU Pride Alliance were required to fundraise from an outside donor to support their informal club events.

96. On May 8, 2020, Plaintiff Miller expressed to the University Office of Human Resources that he wanted to file a discrimination complaint against YU for actions taken against LGBTQ students, specifically based on YU's repeated rejection of the formation of an LGBTQ group on campus. In response, he was told that it would be futile to file a complaint because the University had already issued a decision on February 24, 2020 in response to another student's complaint about the discriminatory denial of an LGBTQ club, in which it denied the complaint.

3) SEPTEMBER 2020: YU AGAIN DENIES THE YU PRIDE ALLIANCE RECOGNITION AND PUBLICLY ANNOUNCES THAT IT WILL NOT RECOGNIZE LGBTQ STUDENT CLUBS

97. On September 3, 2020, despite knowing that it might be futile, the YU Pride Alliance persisted in applying again for official club status for the Fall 2020 semester.

98. That same day, Yeshiva University administrators emailed a statement dedicated to the issue of LGBTQ students at YU, titled “Fostering an Inclusive Community,” to the entire YU community. The statement was signed by Dr. Yael Muskat, Rabbi Yaakov Neuburger, Dr. Rona Novick, and Dr. David Pelcovitz.

99. In the September 3, 2020 statement, the YU administration stated as its policy that it would not recognize LGBTQ clubs on campus.

100. Tucked between various promises to make Yeshiva University more open to LGBTQ students by, for example, providing additional training, YU stated that it would not permit LGBTQ students to form an official club.

101. In the statement, Yeshiva stated: “The message of Torah on this issue is nuanced, both accepting each individual with love and affirming its timeless prescriptions. While students will of course socialize in gatherings they see fit, forming a new club as requested under the auspices of YU will cloud this nuanced message.”

102. Yeshiva’s September 3, 2020 statement was intended to convey and did convey to the YU Pride Alliance and the whole YU community that the YU Pride Alliance (and any other LGBTQ student group) would not be recognized as an official student club.

103. Upon information and belief, President Berman authorized and approved the September 3, 2020 statement.

104. Covering the September 3, 2020 statement, the student newspaper reported, “The statement also revealed that YU will not approve an LGBTQ club, a decision passed to administrators in February.”⁷

105. Defendant Yeshiva University’s publication of this statement unequivocally again denied the YU Pride Alliance’s application to be recognized as an official student club, including for the Fall 2020 semester.

106. The September 3, 2020 statement was a devastating blow to YU Pride Alliance members. After years of seeking recognition for a club and YU evading the question, YU had announced to the entire University community that it would not allow one.

107. On September 29, 2020, members of the YU Pride Alliance board attended a virtual video meeting with the “YU Inclusion Panel,” including Defendant Nissel, Rosh Yeshiva Yaakov Neuburger, Dean Rona Novick, Counseling Center Director Yael Muskat, and Professor David Pelcovitz in a further attempt to receive official guidance from Yeshiva.

108. At this meeting, YU Pride Alliance board members again expressed the importance to LGBTQ students having a club, holding public events, and having public conversations about LGBTQ issues. One board member presented academic research showing the elevated suicide risk among LGBTQ students and how LGBTQ student groups lower that risk because they help address prejudice and social stigma, and provide a safe space for LGBTQ students to form community.

109. At one point, a YU Pride Alliance board member directly asked the Panel members what led to Defendant Yeshiva University’s decision not to allow the YU Pride

⁷ Sruli Fuchter, *YU Announces New LGBTQ Inclusivity Policies, Denies LGBTQ Club Formation*, YU Commentator (Sept. 3, 2020), <https://yucommentator.org/2020/09/you-announces-new-lgbtq-inclusivity-policies-denies-lgbtq-club-formation/>.

Alliance to exist as a club. The board member also pointed out that YU made that decision without ever holding an official meeting with the YU Pride Alliance as an entity to discuss its intent to deny the club or provide YU Pride Alliance an opportunity to respond.

110. Rosh Yeshiva Neuburger reiterated that making an LGBTQ club formal would “cloud” the issues being considered and sacrifice real accomplishment. He then said that a conversation about holding events could be held in the future, but that YU would not commit to having any substantive discussion about what event guidelines could look like without having actual proposed events in hand.

111. YU Pride Alliance board members understood Rosh Yeshiva Neuburger’s response to be another attempt to delay the establishment of formal rules, policies, or procedures that would allow the YU Pride Alliance to host events or otherwise engage in club activities.

112. On December 9, 2020, a student unaffiliated with the YU Pride Alliance received a letter from Defendant Nissel regarding his prior discrimination complaint against the University for its denial of the Alliance’s club application. In the letter, Defendant Nissel confirmed that YU had decided not to approve the YU Pride Alliance as a student group.

4) YESHIVA UNIVERSITY HAS NOT CHANGED ITS OFFICIAL POSITION OF REFUSING TO RECOGNIZE OR PERMIT AN LGBTQ STUDENT ORGANIZATION

113. Defendants continue to refuse to recognize an official LGBTQ undergraduate student club at Yeshiva University.

114. Since its September 3, 2020 statement, Defendants have not publicly changed, revised, or revisited their official position that Yeshiva University will not recognize an official LGBTQ student club.

115. It is the current policy and practice of Yeshiva University not to recognize any official undergraduate club or organization for students who identify as LGBTQ.

116. Based on the foregoing, Plaintiffs YU Pride Alliance and Doe believe that YU will deny any future application for the YU Pride Alliance to receive official student club status.

5) YU'S REJECTION OF AN LGBTQ STUDENT CLUB HAS HARMED PLAINTIFFS

117. At all relevant times, Defendants have known or perceived the individual Plaintiffs and the student members of the YU Pride Alliance to be individuals who identify as LGBTQ, or to be individuals who seek to associate with other individuals who identify as LGBTQ.

118. Plaintiffs have each been harmed by Defendants' denial of the YU Pride Alliance, and its predecessor, the GSA.

119. Plaintiffs have all been negatively impacted by the lack of an official LGBTQ student group on campus during their time as undergraduate students at YU.

120. Plaintiffs may not hold meeting on campus; they must travel off-campus for meetings. They cannot choose panels and speakers on issues of its choice. They receive no funding and have had to fundraise from outside sources. During the pandemic, they did not have a premium Zoom account from YU like all other student groups. They are not listed on YU's student group list. They are not invited to the annual club fairs for new students. Plaintiffs have experienced feelings of isolation, fear, and rejection. They have felt unwelcome and unwanted on their own campus. Because they do not have a club, Plaintiffs have been deprived a safe space to create a community of people facing these same challenges as LGBTQ Jewish individuals at YU.

121. YU students have stated to Plaintiff John Doe that LGBTQ students and their allies do not have any right to “their” campus and resources, or to make YU sanction an LGBTQ club, and that instead should leave campus and withdraw from YU.

122. These deprivations and casually cruel remarks contribute to a campus environment that prevents students from having full and equal access to a successful college experience.

123. Educational institutions which provide LGBTQ students with access to recognized student groups and formal organizational spaces enable student success by allowing students to build leadership and civic engagement skillsets, develop peer and mentoring networks, and experience belonging and support.

124. Defendant’ refusal to recognize the YU Pride Alliance and its issuance of a public statement to that effect on September 3, 2020 has communicated to Plaintiffs and the broader community that it does not see Plaintiffs as equal to other students or entitled to the rights that other students enjoy.

125. Plaintiffs have expended significant time and energy trying to persuade Defendants to recognize their student organization. The individual Plaintiffs have lost opportunities to further advance their studies, engage with other clubs, participate in their own hobbies and activities, and spend time with friends and family.

126. Plaintiff YU Pride Alliance has had to divert significant club time and resources to its efforts to secure club recognition from the administration. Rather than advocating for the administration to follow the law, Plaintiff YU Pride Alliance members could have instead organized additional events to promote LGBTQ understanding and tolerance on campus; provided services and resources to LGBTQ students on campus; hosted gatherings celebrating

religious holidays; or simply bonded over books or television shows. In other words, absent Defendants' discrimination, the YU Pride Alliance could have functioned as a normal club serving the needs of LGBTQ students at YU.

a) Yeshiva's Actions Violate Its Own Policies

127. YU's official "Non-Discrimination and Anti-Harassment Policy & Complaint Procedures" document recognizes as unlawful and prohibits any discrimination "based on . . . sex . . . sexual orientation, [and] gender identity and expression."⁸

128. Defendants' refusal to approve the YU Pride Alliance as a recognized undergraduate club is unlawful discrimination based on sex, sexual orientation, and gender identity and expression in violation of this policy.

129. The Yeshiva University "Undergraduate Student Bill of Rights and Responsibilities" states that "[s]tudents who are otherwise qualified have the right to participate fully in the University community without discrimination as defined by federal, state, and local law" and to "be treated fairly with respect and dignity at all times." The same document includes provisions that allow students to "organize and join clubs and participate in events in all cases in accordance with applicable rules and procedures."⁹

130. Defendants' refusal to approve Plaintiff YU Pride Alliance as a sanctioned undergraduate club or allow Plaintiffs to organize and/or join an LGBTQ club is a violation of Plaintiffs' rights under the Undergraduate Student Bill of Rights and Responsibilities.

⁸ Yeshiva University, *Non-Discrimination and Anti-Harassment Policy & Complaint Procedures*, (Dec. 31, 2020), https://www.yu.edu/sites/default/files/inline-files/Non-Discrimination%20and%20Anti-Harassment%20Policy%20-%20TIX%20Policy%20%28December%2031%2C%202020%29%20%2800056181xA0726%29_1.pdf.

⁹ Yeshiva University, *Undergraduate Student Bill of Rights and Responsibilities, Undergraduate Student Disciplinary Procedures*, https://www.yu.edu/sites/default/files/legacy/uploadedFiles/Student_Life/Resources_and_Services/Standards_and_Policies/Updated%20Bill%20of%20Rights%2011.29.12.pdf

b) Yeshiva is Subject to, and Has Violated, the New York City Human Rights Law

131. Denying recognition and club benefits to an LGBTQ student group, such as the YU Pride Alliance, violates Defendants' obligations under the New York City Human Rights Law.

132. By denying recognition of an LGBTQ student group, such as the YU Pride Alliance, Defendants have denied Plaintiffs of the benefits of club recognition, including funding from student government and use of university facilities, which includes virtual facilities provided by YU during the COVID-19 pandemic.

133. Defendants' refusal to grant YU Pride Alliance's student club applications has also denied Plaintiffs of the social and emotional benefits of an LGBTQ student club, including the existence of an official space to find and provide mutual support, foster community, and share experiences.

134. These privileges have been granted to other approved clubs on campus.

135. This disparate treatment and the denial of these concomitant benefits to club recognition, solely based on Plaintiffs' sex, sexual orientation, or gender identity, is not only harmful to the students, but also unlawful as it amounts to a failure to provide equal access to facilities in violation of New York City laws.

136. Section 8-107(4) of the New York City administrative code prohibits providers of public accommodation from denying the "full and equal enjoyment" of those "accommodations, advantages, services, facilities, or privileges" due to a number of protected characteristics, including gender and sexual orientation.

137. Section 8-107(20) of the New York City administrative code prohibits providers of public accommodation from denying the "full and equal enjoyment" of those "accommodations, advantages, services, facilities, or privileges" due to a relationship or

association with individuals who identify with a number of protected characteristics, including gender and sexual orientation.

138. Defendant Yeshiva University is subject to the New York City Human Rights Law.

139. Denying recognition and approval of an undergraduate LGBTQ club denies Plaintiffs full and equal enjoyment of Yeshiva University's accommodations, advantages, services, facilities, and privileges.

140. The accommodations, advantages, services, facilities, and privileges that YU is denying Plaintiffs but provides in full to other recognized student clubs include, but are not limited to, the use of campus spaces and the ability to reserve campus spaces for club use; club funding to host speakers and other club-related events, to prepare event materials such as flyers and pamphlets, and to provide food and/or beverages at meetings and/or events; access to student fairs and other events at which campus organizations make themselves known to students; and official recognition on the Yeshiva University Student Clubs and Organizations website.

141. Plaintiffs have not previously filed a civil or administrative action alleging an unlawful discriminatory practice with respect to the allegations that are the subject of this Complaint.

CLAIMS FOR RELIEF

FIRST CAUSE OF ACTION

N.Y.C. Admin. Code § 8-107(4) – Discrimination on the Basis of Gender and Sexual Orientation in Violation of the New York City Human Rights Law (On Behalf of All Plaintiffs) (Against All Defendants)

142. Plaintiffs repeat and reallege the allegations set forth in the preceding paragraphs as if fully set forth herein.

143. Defendants are providers of a public accommodation pursuant to N.Y.C. Admin. Code § 8-102 because they are “providers, whether unlicensed or licensed, of goods, services, facilities, accommodations, advantages or privileges of any kind.”

144. Defendants know or perceive the individual Plaintiffs and student members of YU Pride Alliance to identify as LGBTQ, and know or perceive the YU Pride Alliance’s activities to be focused on LGBTQ issues and its mission to be fostering a safe and inclusive community for LGBTQ students.

145. Defendants have denied Plaintiffs equal advantages, facilities, and privileges of a public accommodation by denying their requests for the YU Pride Alliance to be an official club because of Plaintiffs’ actual or perceived gender or sexual orientation, in violation of § 8-107(4)(a)(1)(a) of the Code and have damaged Plaintiffs thereby.

SECOND CAUSE OF ACTION

N.Y.C. Admin. Code § 8-107(4) – Discrimination on the Basis of Gender and Sexual Orientation in Violation of the New York City Human Rights Law (On Behalf of Plaintiffs Meisels, Miller, and Weinreich) (Against All Defendants)

146. Plaintiffs repeat and reallege the allegations set forth in the preceding paragraphs as if fully set forth herein.

147. Defendants know or perceive Plaintiffs Meisels, Miller, and Weinreich to identify as LGBTQ.

148. Defendants have denied Plaintiffs Meisels, Miller, and Weinreich equal advantages, facilities, and privileges of a public accommodation by denying the request for the Gay-Straight Alliance to be an official club because of the actual or perceived gender or sexual orientation of Gay-Straight Alliance members, in violation of § 8-107(4)(a)(1)(a) of the Code and have damaged them thereby.

THIRD CAUSE OF ACTION**N.Y.C. Admin. Code § 8-107(4) – Discrimination on the Basis of Gender and Sexual Orientation in Violation of the New York City Human Rights Law
(On Behalf of Plaintiffs YU Pride Alliance, Meisels, and Doe)
(Against All Defendants)**

149. Plaintiffs repeat and reallege the allegations set forth in the preceding paragraphs as if fully set forth herein.

150. Defendants are providers of a public accommodation pursuant to N.Y.C. Admin. Code § 8-102 because they are “providers, whether unlicensed or licensed, of goods, services, facilities, accommodations, advantages or privileges of any kind.”

151. Defendants’ September 3, 2020 written communication to the Yeshiva University community titled “Fostering an Inclusive Community” communicated that Defendants would not allow an official LGBTQ student club or organization at Yeshiva University.

152. Defendants communicated their intent to refuse, withhold from, and/or deny to Plaintiffs the full and equal enjoyment, on equal terms and conditions, of a public accommodation, by publicly stating on September 3, 2020 that they would not allow Plaintiffs to establish an official LGBTQ student club such as YU Pride Alliance at Yeshiva University on account of gender and sexual orientation, in violation of § 8-107(4)(a)(2)(a) of the Code and have damaged Plaintiffs thereby.

FOURTH CAUSE OF ACTION**N.Y.C. Admin. Code § 8-107(20) – Discrimination on the Basis of Association in Violation of the New York City Human Rights Law
(On Behalf of All Plaintiffs)
(Against All Defendants)**

153. Plaintiffs repeat and reallege the allegations set forth in the preceding paragraphs as if fully set forth herein.

154. Defendants knew or perceived members of the YU Pride Alliance to identify as LGBTQ and knew or perceived the YU Pride Alliance's activities to be focused on LGBTQ issues and its mission to be fostering a safe and inclusive community for LGBTQ students.

155. Defendants knew or perceived that Plaintiffs, by virtue of their request for the YU Pride Alliance to receive official club approval, sought to associate with students who identify or are perceived as LGBTQ.

156. Defendants have denied Plaintiffs the advantages, facilities, and privileges of a public accommodation because of their relationship or association with individuals who identify or are perceived as LGBTQ, in violation of § 8-107(20) of the Code and have damaged them thereby.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that judgment be entered against Defendants as follows:

1. Declaring that Defendants Yeshiva University, Vice Provost Chaim Nissel, and President Ari Berman violated the Plaintiffs' rights under the New York City Human Rights Law by virtue of their conduct alleged in this action and that Defendants' actions continue to cause these ongoing violations of Plaintiffs' rights;
2. Restraining Defendants Yeshiva University, Vice Provost Chaim Nissel, and President Ari Berman from continuing their unlawful refusal to (a) officially recognize the YU Pride Alliance as a student organization because of the actual or perceived sexual orientation or gender of the YU Pride Alliance's members, and/or the YU Pride Alliance's status, mission, and/or activities on behalf of

LGBTQ students and (b) grant the YU Pride Alliance the full and equal accommodations, advantages, facilities, and privileges of Yeshiva University, because of the actual or perceived sexual orientation or gender of the YU Pride Alliance's members, and/or the YU Pride Alliance's status, mission and/or activities on behalf of LGBTQ students.

3. Awarding such damages to Plaintiffs Meisels, Weinreich, Miller, and Doe as will fully compensate for injury caused by Defendants' unlawful practices;
4. Awarding punitive damages to Plaintiffs;
5. Awarding Plaintiffs reasonable attorneys' fees, costs, and expenses incurred in prosecuting this action; and
6. Granting Plaintiffs such other further relief as may be just and proper.

Dated: April 26, 2021
New York, New York

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