

**IN THE CIRCUIT COURT OF CEDAR COUNTY
TWENTY-EIGHTH JUDICIAL CIRCUIT**

The State of Missouri, <i>ex rel.</i>)	
Attorney General Eric S. Schmitt, and)	
)	
The Missouri Department of Social)	
Services;)	
)	
<i>Plaintiffs,</i>)	
v.)	Case No. _____
)	
Agapé Baptist Church Inc., d/b/a)	
Agapé Boarding School;)	
)	
<i>Defendant.</i>)	

VERIFIED PETITION FOR INJUNCTIVE RELIEF

1. This action seeks an injunction to cease operations at Agapé Boarding School and remove the children there to safety.

2. The children should be removed for at least four reasons: (1) the State has received reports from current Agapé students regarding abuse and neglect by current Agapé staff members, including painful physical restraints and prolonged handcuffing; (2) the State has received corroborating reports from former Agapé students regarding abuse and neglect by current Agapé staff members; (3) multiple current Agapé staff members have been found by the Missouri Department of Social Services (DSS) to have committed abuse or neglect against Agapé students, and one current Agapé staff member is facing criminal assault charges for actions against Agapé students; and (4) multiple individuals listed on the most recent Agapé “Employee list” have not completed mandatory criminal background checks pursuant to § 210.1263, RSMo.

3. But for DSS employees currently present 24 hours a day at the facility, the Attorney General and DSS believe that the abuse and neglect would be occurring now and that the conduct will return as soon as DSS employees are no longer in the facility to ensure safety.

4. Evidence obtained by the State throughout its investigation, especially in September 2022, demonstrates an immediate health or safety concern for the children at Agapé and must be considered by a Court.

5. This action also seeks a temporary injunction to preserve the status quo and prevent Agapé Boarding School from moving children and attempting to evade accountability while continuing to endanger children.

6. The State has learned from Agapé's director that Agapé plans to change away from a boarding school-type facility. Starting Tuesday, September 27, 2022, the boys will be in five group homes on the property with an intention of nine boys per home.

7. At least one new entity has been recently formed by two individuals on the most recent Agapé employee list for the purpose of "Home for Troubled Youth."

8. Agapé's director also reported that at least 12 individuals on the most recent employee list would no longer be working at Agapé after Monday, September 26, 2022.

9. Agapé thus far has sought to evade accountability by only taking action when absolutely necessary. For example, Agapé allowed a then-current staff

member, who had been added to the state's Child Abuse/Neglect Central Registry, to remain on its property and its employee list until exposed by the State.

10. Agapé also has sought to evade accountability by providing incomplete information about the individuals with access to children and adults who reside on the Agapé property or work in the residential care facility.

11. Survivors of Agapé continue to experience physical and mental health concerns resulting from their time at Agapé. The physical and mental health effects from the victims' time in Agapé did not end when they left the facility, but continues to affect their lives.

12. Additional information and allegations are still being uncovered by the Attorney General and DSS, including but not limited to additional recent allegations of children being handcuffed for days, not only individually with their hands cuffed behind their backs, but also handcuffed to other children.

13. Agapé's operation of a residential care facility must cease because of multiple violations of § 210.1271, including that it presents an immediate health and safety concern for the children residing at Agapé and because Agapé has failed to comply with the requirement that certain individuals must successfully complete a background check as required by state law. §§ 210.493, 210.1263, and 210.1271, RSMo.

Nature of Action

14. In the summer of 2021, the passage of House Bill Nos. 557 and 560 (collectively, "HB 557") "close[d] a loophole in [Missouri's] child protection system that

had gone unaddressed for decades.” Press Release, “Governor Parson signs bill aimed at addressing abuse in unlicensed youth residential facilities,” Missouri KidsFirst (July 14, 2021), available at: tinyurl.com/dh2t3aup. Ex. A. The new law keeps more of Missouri’s children safe from abuse and neglect.

15. The Attorney General of Missouri and DSS have received credible information that Agapé Boarding School is violating the prohibitions of HB 557. The Attorney General and DSS seek immediate injunctive relief to put an end to this safety concern and protect children from abuse and neglect.

Parties

16. Plaintiff State of Missouri is a sovereign State of the United States of America.

17. Eric S. Schmitt is the 43rd Attorney General of the State of Missouri and brings this action in his official capacity pursuant to Chapter 27. Attorney General Schmitt is authorized to “institute, in the name and on the behalf of the state, all civil suits and other proceedings at law or in equity requisite or necessary to protect the rights and interests of the state, and enforce any and all rights, interests or claims against any and all persons, firms, or corporations in whatever court or jurisdiction such action may be necessary, and he may also appear and interplead, answer or defend, in any proceeding or tribunal in which the state’s interests are involved.” § 27.060, RSMo.

18. As the Supreme Court has explained, “The attorney general has the authority ‘to seek enforcement of the legislature’s statutory purpose.’” *State ex rel.*

Hawley v. Pilot Travel Centers, LLC, 558 S.W.2d 22, 30 (Mo. banc 2018), quoting *Fogle v. State*, 295 S.W.2d 504, 510 (Mo. App. W.D. 2009).

19. The “Attorney General, both because of his statutory and common law powers, is a proper party to bring an action for the state . . . which would prevent injury to the general welfare.” *State ex. rel. Taylor v. Wade*, 231 S.W.2d 179, 182 (Mo. banc 1950).

20. State law explicitly vests Attorney General Schmitt with authority to “seek injunctive relief to cease the operation of the residential care facility and provide for the appropriate removal of the children from the residential care facility and placement in the custody of the parent or legal guardian or any other appropriate individual or entity in the discretion of the court, refer the matter to the juvenile officer of the appropriate county for appropriate proceedings under chapter 211, or other orders as the court determines appropriate to ensure the health and safety of the children.” § 210.1271, RSMo.

21. Attorney General Schmitt sues to ensure the health and safety of children by commencing actions for violations of Chapter 210. § 210.1271, RSMo.

22. Plaintiff Missouri Department of Social Services is a state agency authorized to establish the child welfare system for the entire state and to conduct investigations regarding allegations of abuse and/or neglect of children. §§ 207.020, 210.109 through 210.188, RSMo.

23. State law also explicitly vests DSS with authority to: administer the program for conducting background checks of certain persons associated with license-

exempt residential care facilities, to determine whether these persons are eligible for employment or presence at these facilities, and to seek injunctive relief to cease the operation of residential care facilities, and provide for the appropriate removal of the children or other appropriate relief. §§ 210.493, 210.1250 through 210.1286, 210.1271, RSMo, and 13 CSR 35-71.010, 35-71.015, and 35-71.300.

24. DSS sues to ensure the health and safety of children and to enforce the requirement that Agapé comply with mandatory background check requirements by commencing actions for violations of Chapter 210. § 210.1271, RSMo.

25. Defendant Agapé Baptist Church Inc., d/b/a Agapé Boarding School (herein, “Agapé”) is a license-exempt residential care facility located in Cedar County, Missouri.

Jurisdiction and Venue

26. This Court has subject matter jurisdiction and personal jurisdiction over this action under Art. V, § 14 of the Missouri Constitution and § 506.500, RSMo.

27. Venue is proper in this Court pursuant to § 210.1271, RSMo.

28. This Court may grant injunctive relief pursuant to § 210.1271, RSMo

Statutory Background

29. In 2021, the Missouri General Assembly passed House Bill Nos. 557 and 560 (collectively, “HB 557”), which enacted 16 new sections relating to the protection of children. H.B. 557 & 560, 101st Gen. Assem., 1 Reg. Sess. (Mo. 2021). Ex. B. Governor Parson signed the bill into law on July 14, 2021, and it became effective immediately. *Id.* (“Because immediate action is necessary to protect children, Section

A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.”).

30. HB 557 provides that covered residential care facilities otherwise exempt from obtaining an operating license must comply with certain requirements, including: (1) Notify DSS that they are operating in the state (§§ 210.1256-210.1263); (2) Pass fire, safety, health, and sanitary inspections (§ 210.1265); and (3) Have qualifying staff and residents over the age of 18 pass fingerprint background checks (§ 210.1263). The law further specifies that the authority and responsibility to administer the background checks and to determine whether certain individuals are eligible to be present at a residential care facility rests with DSS. §§ 210.493.5, 210.493.6, 210.493.9, RSMo, and 13 CSR 35.71.010, 35-71.015, and 35-71.300.

31. Additionally, HB 557 has an enforcement mechanism in § 210.1271. Section 210.1271, RSMo grants both the Attorney General’s Office and DSS authority to seek injunctive relief in Court to remove children from the facility or cease the facility’s operations. § 210.1271. The statute provides four grounds for the Attorney General’s Office or DSS to seek such relief. Relevant here are the third and fourth grounds: “Failing to comply with background checks as required by section 210.493[.]” and “An immediate health or safety concern for the children at the residential care facility.” § 210.1271.1(3) and (4). The Plaintiffs have brought this action because the Defendant has failed to comply with the background checks as required by § 210.493,

RSMo, and because there exists an immediate health and safety concern for the children at Agapé.

32. “Immediate” means “acting or being without the intervention of another object, cause, or agency” or “occurring, acting, or accomplished without loss of time.” Webster’s Third New International Dictionary (1966); *Bus. Aviation, LLC v. Dir. of Revenue*, 579 S.W.3d 212, 218 (Mo. banc 2019) (undefined statutory terms given dictionary definition). “Concern” means “a matter that engages a person’s attention, interest, or care” and “worry, solicitude, or anxiety.” Webster’s Third New International Dictionary (1966). By the plain meaning of “concern,” that word is likely less severe than words like “danger” or “risk.”

33. Some Missouri courts over the years have interpreted “immediate” or variations of that phrase. *Bateman v. Rinehart*, 391 S.W.3d 441, 451 (Mo. banc 2013) (“Commercial use cannot be considered “immediate” when the taxing authority admits that such use is “improbable” for more than a year.”); *State v. Bruner*, No. SD 33982, 2016 WL 4130831, at *4 (Mo. App. S.D. 2016) (holding that in the self-defense context, “immediate” means “instant, without the passage of time ... [t]he mere possibility that an event may happen in the future does not create an immediate danger”); *Elliott v. Keith*, 32 Mo. App. 579, 580 (Mo. App. 1888) (“immediate” means “without intervention of time”).

Factual Allegations

Recent allegations of conduct by Agapé staff that continues to raise immediate concern for health and safety of children at Agapé

34. The sheer number of staff whose conduct toward residents has directly raised immediate concerns regarding the health and safety of the children at Agapé and may constitute child abuse or neglect, including physical and emotional abuse, is remarkable. Contemporaneously, current residents continue to independently describe similar conduct in their interviews with Children's Division (CD).¹

a. Current Staff Member 5 picked up resident L.L. and slammed him through a door that was magnetically locked, then restrained L.L. on the ground for about 40 minutes according to independent accounts by residents A.A., T.M., F.F., H.H., and J.J. By all accounts, L.L. was hurt from the incident.

b. Former staff picked up resident Z.C. and slammed him onto the ground according to A.A.

c. Resident M.C. was put into handcuffs for refusing to do jumping jacks as witnessed by A.A. Resident H.H. saw Current Staff Member 5 punch M.C. Resident C.F. saw Current Staff Member 5 punch M.C. in the stomach while other staff held M.C. Afterward, M.C. was put in handcuffs for approximately two weeks. M.C. had depressions on his arm after the handcuffs were removed. Resident J.J. also reported the handcuffing of M.C. and stated that M.C. was not allowed to remove the handcuffs except to go to the bathroom and that M.C. had to sleep in the handcuffs.

¹ Agapé staff members are identified numerically. Current residents of Agapé are identified by initials not associated with their names to protect the child's identity. Concern was expressed by most, if not all, residents who spoke with a DSS investigator that they were fearful of retaliation by Agapé for speaking with DSS.

d. Resident B.B. reported being pushed into a wall by Current Staff Member 5 and then being restrained by his arms and legs.

e. Resident T.M. reported being handcuffed for four days at the direction of Current Staff Member 5. Current Staff Member 2 and Current Staff Member 3 assisted with placing the handcuffs on T.M. He reported he was handcuffed for four days with the handcuffs being placed behind his back. T.M. said he only got them off to use the restroom. T.M. said the handcuffs left marks on his wrists and his left thumb still does not feel normal. G.G. also reported T.M.'s handcuff punishment and said he too was placed in handcuffs and had to sleep in them. G.G. said resident G.W. had to wear handcuffs for seven or eight days.

f. Current resident D.D. described being made to complete extreme exercise requirements such as 1,000 pushups and 250 pushups as punishment and witnessing other residents having to wear handcuffs for days, including sleeping in them.

g. H.H. reported Current Staff Member 5 ordered resident T.H. to wear handcuffs for 100 hours and by the time they were removed, T.H.'s hands were blue and bloodied. K.K. also mentioned the handcuffing of T.H. and both H.H. and K.K. said T.H. did not do anything to deserve punishment.

h. H.H. and J.J. both described an uprising at the facility where resident A.B. broke a window and then was restrained on top of the glass from the broken window. H.H. said A.B. and two others were restrained that night and they all had "fat bruises" on their triceps and behind their knees.

i. C.F. described how resident J.E. was manhandled, dragged, and pushed around by staff for no apparent reason. Another resident, M.M., has his shoes taken away for over a week. When M.M. wrote a letter to his parents, it was torn up by Current Staff Member 5.

f. Current residents repeatedly expressed fear of retaliation for speaking with CD, including fear of being demoted to “Brown town” and not being allowed to contact their parents. H.H. wrote reminder notes for his meeting with CD but was so fearful of reprisal that he hid his notes in his shoe in case he were searched by Agapé staff prior to his meeting with CD. Some reported staff discouraging a resident from speaking to CD. Current residents reported prior to CD being on site, they would not have been allowed to use the phone to make calls or participate in other activities. Seven of the 11 residents interviewed in the past week reported living conditions are much better since CD has been present at the facility.

35. The State continues to receive reports from current and former Agapé students relating to abuse and neglect by Agapé staff.

36. Agapé continues to employ staff who have exhibited conduct toward residents that may rise to the level of child abuse or neglect. Absent relief from this court, once DSS staff are no longer in the facility, the conduct previously exhibited by current staff at Agapé directly raises immediate concerns, and there exists an immediate concern for the health and safety of the children at Agapé.

Other individuals with access to children whose conduct raises concern for health and safety of the children at Agapé and may rise to the level of child abuse and neglect

37. The Attorney General's Office and DSS have exposed other concerning allegations at Agapé that also constitute an "immediate health or safety concern" under § 210.1271.1(4) and are consistent with the pattern of abuse reported by current students during interviews since the State first initiated action against Agapé.

38. According to the most recent census report submitted by Agapé on September 22, 2022, five staff members who are responsible for conduct that directly raises immediate concerns about the health and safety of the residents at Agapé and may rise to the level of child abuse or neglect, remain employed at the facility.

39. In the summer of 2020, resident J.P. cried after staff ripped up letters he received from his "paw-pa" and he was demoted to "Brown town" for threatening to hurt staff for doing so. Brown town was the designation given to the lowest level in a hierarchy of levels at Agapé. In Brown town, residents were assigned excessive physical exercises every day and simultaneously suffered food restriction and deprivation, as well as water deprivation. Current Staff Member 1 was one of several staff who restrained J.P. for an hour and a half. As a result of that restraint, J.P. suffered large bruises lining his left arm from the bicep to the forearm, and bruises on his right side and ankles. J.P.'s mother saw J.P. after the restraint and observed the bruises.

40. Another resident, E.E., was running as discipline and when he couldn't continue, Current Staff Member 1 threw E.E. against the wall and began applying pressure to E.E.'s shoulder. He lifted E.E. into the air and slammed him on the

ground. While taking E.E. to the ground, Staff Member 1 landed on E.E.'s shoulder and then began pressing his elbow into E.E.'s shoulder. Days later, E.E. received medical care and the injury to his shoulder required E.E.'s arm to be a sling for three months.

41. Current Staff Member 2 restrained resident J.P. for approximately two hours. J.P. suffered a large bruise on his low back area as a result of the restraint. Further, staff members, including Current Staff Member 2, used their elbows to dig into the muscles of J.P.'s arms and he experienced numbness and the inability to use his fingers as a result of the staff's conduct.

42. Current Staff Member 3's conduct toward at least three residents, J.P., N.B., and Z.C., creates a direct concern regarding the immediate health and safety of the residents. Current Staff Member 3 restrained J.P. for two hours and dug his elbows into J.P.'s arm muscles to the point J.P. experienced numbness and the inability to use his fingers. J.P. suffered a large bruise on his lower back attributed to Current Staff Member 3's restraint.

43. Current Staff Member 3 restrained N.B. while other staff used their elbows and knees on pressure points on N.B.'s arms and legs such that N.B. lost feeling in his arms and legs. N.B.'s legs swelled and he sustained large bruises. As a result of such restraints, N.B. was diagnosed with ulnar nerve neuropathy which is consistent with physical abuse.

44. Current Staff Member 3 restrained yet another resident, Z.C., and Z.C. suffered severe bruising on his arms as a result and subsequent difficulty using his arms.

45. Current Staff Member 4 is the medical coordinator for Agapé and he forcefully scrubbed tattoos off of the residents using rubbing alcohol and a Brillo (steel wool) pad which resulted in scarring.

46. Current Staff Member 5 directs the facility, is intimately familiar with its structure and operation, participates in the management, and was fully aware of and condoned, if not promoted, Brown town. Current Staff Member 5's conduct regarding W.S., who was a resident who suffered significant weight loss as a result of his time in Brown town, creates a direct concern of an immediate threat of health and safety of the residents. W.S.'s weight loss was documented as malnourishment by the child advocacy center. W.S. reportedly resorted to stealing food from the facility to stave off starvation.

47. In addition to perpetrating Brown town and its deprivations and extreme physical requirements, in an attempt to put G.W. in the "apartment," Current Staff Member 5 grabbed resident G.W.'s hair on the right side of his head and slammed his head onto the tile floor multiple times. As G.W. was restrained by other staff, Current Staff Member 5 then put his knee on G.W.'s head and into G.W.'s arms. G.W.'s ear swelled two to three times its normal size and puss oozed from the back of his ear. G.W. suffered heavy bruising to his arms and a loss of feeling and numbness in his fingers and right hand for weeks afterwards.

48. Current Staff Member 5 was part of the staff group who “restrained” J.P. for an hour and a half after staff ripped up letters from J.P.’s “paw-pa.” Current Staff Member 5 caused bruising on J.P.’s left bicep to his forearm and bruising on his right arm and his ankles.

49. Z.C. suffered severe bruising on his arms and difficulty using his arms after restraints by Current Staff Member 5. Excessive use of force with elbows and knees during restraints was designed to increase pain and induce compliance, not to prevent injury and safeguard students.

50. Resident E.E. was slammed into the wall by staff before being taken to the intake room where Current Staff Member 5 tossed E.E. onto the ground. Current Staff Member 5 then used his elbow to strike E.E.’s head causing E.E.’s head to hit the wall. E.E. was injured by Current Staff Member 5 and other staff in this incident and in the restraints where staff, including Current Staff Member 5, used their elbows and knees to apply pressure.

51. Staff Member A was previously employed with Agapé and although no longer employed, continues to reside on the property according to the September 8, 2022 census provided by Agapé. While employed with Agapé, Staff Member A placed his knees on resident G.W.’s upper arms during a restraint causing G.W. to sustain dark bruises that lasted for approximately four weeks. Staff Member A’s additional pressure during restraints increased the pain suffered by G.W.

52. Current employee Scott Dumar is subject to felony assault charges in case number 21CD-CR00359 arising out of acts toward residents in the course of his employment at Agapé.

53. Other Agapé staff who were found to have abused the residents have reportedly left the employment and the property of Agapé. In addition, the following individuals were employed by Agapé and due to acts involving residents during their employment, are now subject to felony assault charges: *State v. Seth Duncan*, 21CD-CR00361; *State v. Trent Hartman*, 21CD-CR00360; *State v. Christopher McElroy*, 21CD-CR00358; *State v. Everett Graves*, 21CD-CR00362. Former employee David Smock has pending felony charges for 4 counts of 1st degree statutory sodomy, attempted 2nd degree statutory sodomy, sexual misconduct, child molestation, and stalking, all arising from his acts toward residents during his employment at Agapé. *See State v. Smock*, 21CD-CR00485.

54. Agapé's prior and continued disregard for the conduct of its employees toward the children at Agapé, conduct believed to rise to the level of child abuse or neglect, raises serious and immediate concerns for the health and safety of the children at Agapé Boarding School and gives cause to grant the relief sought by Attorney General and DSS so that the safety of children can be ensured as required by § 210.1271, RSMo.

Individuals living and working at Agapé who were not reported to DSS and have not undergone background checks

55. On August 18, 2022, pursuant to § 210.1264, RSMo, a census request was sent to Agapé Boarding School by email and by United States mail requesting “a

list of the names of all children currently at your facility; and the names of all current employees, officers, managers, adult residents, volunteers with access to any children at the facility, and any other adults who may have unsupervised access to children at the facility by August 23, 2022.” Ex. J.

56. On August 22, 2022, Agapé provided responsive documents to DSS. One such document was titled “ABS ~ Students” (Ex. K) and the other titled “Agape Employee List.” Ex. S. The State has separately filed a motion to seal Exhibits K and S and will submit them to the Court if that motion is granted.

57. On September 8, 2022, another Census Request was presented to Agapé demanding the facility to immediately provide DSS with “a list of the names of all children currently at your facility, with their dates of birth, states of residence, and parental contact information” as well as an updated “list of the names of all current employees, officers, managers, adults residing at the property, volunteers with access to any children at the facility, and any other adults who may have unsupervised access to children at the facility.” Ex. L.

58. This request was made after the filing of Cedar County Circuit Court Case No. 22CD-CV00394 when Agapé was well aware that Agapé Staff A was ineligible for employment or presence at Agapé pursuant to the letter they received on September 7, 2022. Ex. H.

59. On September 8, 2022, Agapé provided responsive documents to DSS. One document titled “Agape Student,” dated “9/8/2022 12:48” (Ex. M) and the other titled “Agape Employee list” which continued to be dated “August 2022.” Ex. I. The

State has separately filed a motion to seal Exhibits I and M and will submit them to the Court if that motion is granted.

60. The September 8, 2022 Agapé Student List (Ex. M) provided by Agapé did not include states of residence for each child as requested by DSS (Ex. L) pursuant to § 210.1264, RSMo.

61. The September 8, 2022 roster (Ex. I) also included five other current Agapé employees who CD determined by a preponderance of the evidence perpetrated abuse and neglect at Agapé Boarding School, but who requested an Administrative Appeal of the CD's preliminary findings.

62. The September 8, 2022 roster provided by Agapé (Ex. I) also included additional information than the August 22, 2022 roster provided by Agapé (Ex. S). On both occasions, DSS made a similar request for information under § 210.1264. On August 22, 2022, Agapé only provided employee names. On September 8, 2022, Agapé provided a list with at least five more names, but did not distinguish any individual's status, such as who was an employee, adult resident, or volunteer with access to any children at the facility.

63. Agapé's withholding of information from DSS on August 22, 2022, regarding who has access to the children at Agapé and the presence of such individuals working at a residential care facility constitutes an "immediate health or safety concern" under § 210.1271.1(4).

64. Agapé's withholding of information from DSS on September 8, 2022, regarding who has access to the children at Agapé and the presence of such

individuals working at a residential care facility constitutes an “immediate health or safety concern” under § 210.1271.1(4).

65. On September 22, 2022, another Census Request was presented to Agapé. Ex. V.

66. The September 22, 2022 response provided by Agapé is attached as Exhibits T and U.

67. Agapé’s student census (Ex. T) was down to 53 students, one notable missing student was J.S. This student had turned 18 between the September 8 Student Census (Ex. M) and the September 22 Student Census (Ex. T).

68. Agapé’s September 22, 2022 response contained an “Employee list” with the same names as the September 8, 2022 list except that, of importance to this litigation, Agapé Staff A and Individual 13 were not included.

69. Individual 14, Individual 15, and Individual 16 were not included in Ex. U though they were listed on the prior two “Agapé Employee lists.” (Ex. I and Ex. S).

70. The September 22, 2022 Employee list (Ex. U) also included five other current Agapé employees who CDdetermined by a preponderance of the evidence perpetrated abuse and neglect at Agapé Boarding School, but who requested an Administrative Appeal of the CD’s preliminary findings.

71. Agapé’s director reported to DSS that any staff member with a mark beside their name on the census would no longer be working at Agapé after Monday, September 26, 2022. The State counted at least 12 names with marks beside them.

72. Upon information and belief, Agapé employs at least one other employee who works with students but whose name was not included on the September 8, 2022 census (Ex. I).

73. Plaintiffs allege upon information and belief that Agapé filed two previous License Exempt Residential Care Facility Notification Forms, both signed by the director, attesting that the information contained in the notice and the supplemental materials was true, accurate, complete, and subject to the penalties of perjury without disclosing non-employee adult residents at the facility as required by § 210.1262(2) and 13 CSR 35-71.300(5). Ex. N and Ex. O.

74. Agapé has made no attempts to submit a proper License Exempt Residential Care Facility Notification Form.

75. Section 210.493.2, RSMo, requires officers, managers, contractors, volunteers with access to children, employees, and other support staff of residential care facilities subject to the notification requirements under sections 210.1250 to 210.1286; any person eighteen years of age or older who resides at or on the property of such residential care facility; any person who has unsupervised contact with a resident of the residential care facility; and owners of such residential care facilities who will have access to the facilities to successfully complete background checks with DSS.

76. Section 210.493, RSMo, was enacted as emergency legislation because the General Assembly declared its protections necessary for the immediate preservation of the public health, welfare, peace, and safety.

77. As of the filing of this petition, Agapé continues to be noncompliant with the requirements of § 210.493.2, RSMo.

78. Nine of the individuals who were listed on the September 8, 2022, “Agape Employee list” (Ex. I) had not applied for an eligibility determination, had not completed the background check process, or had been deemed ineligible to be present at the facility as a result of background screening. Those individuals include: Individual 6, Individual 7, Individual 8, Individual 9, Individual 10, Individual 11, Individual 12, Agapé Staff A, and Individual 13. Two of these individuals are no longer included on the September 22, 2022 “Agape Employee list.”

79. Seven of the individuals who were listed on the September 22, 2022, “Agape Employee list” (Ex. U) have not applied for an eligibility determination or have not completed the background check process. Those individuals include: Individual 6, Individual 7, Individual 8, Individual 9, Individual 10, Individual 11, and Individual 12.

80. Agapé is aware of the requirements of § 210.493.2, RSMo, and had previously been granted extensions to allow additional time for applications for background checks and fingerprints to be submitted. At the request of Agapé, on March 31, 2022, DSS granted Agapé a blanket extension to the phase-in period up to and including June 30, 2022. Ex. P.

81. On June 29, 2022, upon request by Agapé, Agapé was granted an extension by DSS which specifically stated and advised:

“An extension for any employee with background check applications pending is granted. Please remember if your agency

has employees that have not begun the background check process by June 30, 2022, those employees will no longer be eligible for employment until they complete the background check process and you receive the eligibility letter. Also as of July 1, 2022, any new hired employees must complete the background check process prior to beginning employment. The phase-in period of an agency continuing to hire without an eligibility letter ends on June 30, 2022.”

Ex. Q.

82. All extensions have lapsed for those who did not begin their background check application by June 30, 2022.

83. Individual 6, Individual 8, Individual 10, Individual 11, and Individual 12 were added to the September 8, 2022 census (Ex. I) as adult residents residing at the facility or property with their associated spouse and they remain on the most recent census received September 22, 2022 (Ex. U). Individual 8 and Individual 12 have never submitted an application for a background check as required by § 210.493.2, RSMo. On September 21, 2021, Individual 6, Individual 10, and Individual 11 applied for background checks, though no eligibility determinations have been made.

84. Individual 9 has been listed on all censuses received by DSS as well as listed on both License Exempt Residential Care Facility Notification Forms submitted to DSS by Agape’s Director as a “Driver” for Agapé (Ex. N and Ex. O), but has at no time submitted an application for a background check as required by § 210.493.2, RSMo.

85. Individual 13 was listed on Ex. I and Ex. G, but ceased to be listed on the September 22, 2022 “Agape Employee list” (Ex. U), during their tenure with

Agape at no time did they submit an application for a background check as required by § 210.493.2, RSMo.

86. Individual 7 is listed as a current employee in all three employee census lists provided by Agapé (Ex. I, Ex. S, and Ex. U) and had submitted an application for a background check on August 5, 2022, but has failed to follow through with the fingerprinting requirements.

87. Without a completed application, an eligibility decision has not been made regarding Individual 7, and at this time, Individual 7 is not eligible for employment or presence at Agapé since his incomplete application is not covered by any extension.

88. Individual 7's continued presence at Agapé, as witnessed by DSS staff at Agapé in the past weeks, is a clear violation of §§ 210.493 and 210.1263, RSMo. This violation constitutes grounds for relief under § 210.1271.1(3) and is an "immediate health or safety concern" under § 210.1271, RSMo.

89. No current extension for completion of background check applications and fingerprint submissions cover Individual 6, Individual 7, Individual 8, Individual 9, Individual 10, Individual 11, or Individual 12.

90. Agapé remains non-compliant with §§ 210.493 and 210.1263, RSMo, because there are no pending exceptions or pending extensions for the seven individuals who have failed to submit to a background check or the requirements therein.

91. Plaintiffs have just been made aware that J.S., the newly 18 year old ex-Agape student, submitted an application for a background check September 22, 2022 citing Agape as the LERCF he was affiliated with. J.S. applied as a “current employee” and used 12998 E 1400 Road Stockton, MO 65785 (Agape) for J.S.’s current physical address.

92. Agape did not include J.S. on their “Agape employee list” provided to DSS on September 22, 2022 (Ex. U) nor did Agape note he was an adult resident residing at the facility. Agape continues to provide incomplete information to each and every request for census made by DSS. This continued resistance to and utter disregard for following the laws enacted to protect the welfare of children presents an immediate health and safety concern for the children at Agape.

93. Further, J.S.’s background check is pending and no eligibility determination has been made so at this time, J.S. is not eligible for employment or presence at Agape. J.S.’s continued presence at Agapé is a clear violation of §§ 210.493 and 210.1263, RSMo. This violation constitutes grounds for relief under § 210.1271.1(3) and is an “immediate health or safety concern” under § 210.1271, RSMo.

94. Section 210.1283, RSMo, criminalizes the failure to complete a background check as described under §§ 210.493 and 210.1263, RSMo.

95. The purpose of § 210.493, RSMo, and the “Residential Care Facility Notification Act” is to ensure the safety of children at residential care facilities by conducting independent background checks to determine if employees, volunteers

with access to children, adult residents living on the property of the facility have been found guilty or pled guilty to certain enumerated offenses, to determine whether they are registered or required to be registered on a state sex offender registry, or if they are listed as a perpetrator of child abuse or neglect on Missouri's central registry (or another state's registry or database). § 210.493.11, RSMo. DSS is the entity tasked with conducting background check pursuant to § 210.1256.1, RSMo. Conducting thorough, complete, and independent background checks is one of the procedures that the General Assembly has mandated to ensure the safety and health of children in residential facilities.

96. The failure of Agapé to comply with the background check requirements and the presence of individuals who are ineligible for employment or presence at Agapé means that the safety and health of children at Agapé cannot be ensured at this time.

97. Agapé's withholding of information from the State on August 22, 2022 and September 8, 2022 regarding who has access to the children at Agapé constitutes an "immediate health of safety concern" under § 210.1271.

98. The culmination of all of these facts leads the Attorney General and DSS to believe that relief should be granted pursuant to § 210.1271.

Agapé Staff A on Child Abuse and Neglect Central Registry

99. DSS's CD has determined, by a preponderance of the evidence, that some current and former Agapé employees perpetrated abuse or neglect at Agapé

Boarding School. Some of those current and former Agapé employees have appealed the findings to the Child Abuse and Neglect Review Board.

100. One individual, Agapé Staff A, declined to appeal the findings by the September 6, 2022 appellate deadline, and the findings became final on September 7, 2022.

101. Once findings are final, the individual is placed on the Child Abuse/Neglect Central Registry as a perpetrator of child abuse or neglect.

102. On September 7, 2022, Agapé Staff A became listed on the Child Abuse/Neglect Central Registry as a perpetrator of child abuse. 13 CSR 35-31.025(3)(B).

103. On August 22, 2022, DSS obtained a roster of current Agapé employees pursuant to its authority under § 210.1264, RSMo. *See* Ex. S. The roster included Agapé Staff A.

104. Missouri law prohibits individuals from working or being present at a residential care facility, or from living on the property of such residential care facility if they have substantiated findings of child abuse or neglect or appear on the Child Abuse/Neglect Central Registry. § 210.493, RSMo. (An applicant shall be “ineligible for employment or presence” at a residential care facility if he is “listed as a perpetrator of child abuse and neglect under sections 210.109 to 210.183 or any other finding of child abuse or neglect based on any other state’s registry or database,” *Id.* at § 210.493.11(4) (emphasis added)).

105. At 9:19 a.m. on September 7, 2022, CD sent an email and letter to Agapé Boarding School at its official email address notifying Agapé that Agapé Staff A was placed on the Child Abuse/Neglect Central Registry for a substantiated finding of physical abuse. A copy of the letter was also sent by mail. *See Ex. H.* Such notification is consistent with CD's normal practice of notifying a license-exempt facility when a current employee has been found to have perpetrated abuse or neglect at the facility. As of the date of this filing, neither the Children's Division nor the Department of Social Services have received a written response from Agapé.

106. On September 8, 2022, Agapé's director Bryan Clemensen, verbally reported that Agapé Staff A was fired "yesterday" (September 7, 2022), but still resided on the Agapé property in close proximity to children at Agapé.

107. After hearing Agapé's report that it had fired Agapé Staff A on September 7, 2022, and that Agapé Staff A was still present on the property, on September 8, 2022, DSS obtained a roster of current Agapé employees, individuals with access to Agapé children, and adults who reside on the Agapé property. § 210.1264, RSMo. *See Ex. I.*

108. Agapé Staff A was included on the September 8, 2022 roster that Agapé provided to DSS. *See Ex. I.*

109. On September 8, 2022, Agapé Staff A, who is listed on the State's Child Abuse/Neglect Central Registry, was present at Agapé and had access to Agapé children.

110. Missouri law prohibits individuals from working or being present at a residential care facility, or from residing on the property of such residential care facility if they have substantiated findings of child abuse or neglect or appear on the Child Abuse/Neglect Central Registry. § 210.493, RSMo.

111. The presence of such an individual at a residential care facility constitutes an “immediate health or safety concern” under § 210.1271. *See also* § 210.493, RSMo.

112. Agapé’s delay in removing Agapé Staff A from the facility after the listing on the State’s Child Abuse/Neglect Central Registry constitutes an immediate health or safety concern because it reflects on Agapé’s judgment and practices.

Use of Physical Restraints in a Manner that Causes Immediate Concern for the Health and Safety of Children at Agapé

113. Upon information and belief, staff have used and would continue to use, if DSS staff were not currently in the facility, physical restraints in a manner that has caused physical injury to residents in the past, and which now causes immediate concern for the health and safety of the children at Agapé.

114. Agapé outlines its policies around “Behavior & Discipline” in the Agapé Boarding School Parent Handbook, available at parenthandbook.pdf (agapeboardingschool.org). A copy of the Parent Handbook is attached as Ex. R.

115. According to pages 10-11 of the Parent Handbook (Ex. R), the “Various Consequences” to unwanted behaviors are:

1. Verbal Correction

2. 10 pushups-The standard discipline for all rule or norm infractions is ten (10) pushups

3. **20 pushups**- If the student talks back or displays negative attitude when given “ten”; the staff member or ranking student may give another 10(20).
4. **Write-up**- If the student continues talking back or continues to display negative attitude past 20 pushups a “write up” turned into the dean of men is the next step. ”Write-ups” can be for documentation of a student’s negative behavior or an “FYI” for the dean of men/ Agapé to be aware of and consequences then given.
5. **20 or more pushups**- consequence only to be given out by staff
6. **8-counts**- consequence to be performed in place of pushups (10-20-write-up) for more serious infractions, Dean of men may give out more than 20 following a write-up.
7. **Wall Time**- student standing facing a wall with encouraging scripture help; giving them a “personal time-out” to regain focus or composure and are reviewed daily by the dean.
8. **Time Out**- Time spent under direct supervision of a staff member + 1 more individual in the event of extreme negative (or struggling) behavior in our time-out room.
9. **Packets**- A list of various academic basics to be written by student as a help/reminder to show self-control in school, initially starting at 1 per infraction and more added/subtracted based on behavior + school principal approval to help remind student of our expectations in school.
10. **Demotion/Promotion**- Agapé Behavior Scale demonstrates the levels a student goes through during his stay at Agapé

Page 11, Agapé Boarding School Parent Handbook, Ex. R.

116. According to the Parent Handbook, “Agape staff members are trained and certified by the Crisis Prevention Institute (CPI). The Crisis Prevention Institute is a globally recognized organization that teaches professionals to safely manage students who could be prone to anxious or aggressive behavior in a safe, professional, manner.” Ex. R, p. 20. The Parent Handbook further assures parents in bold type that, **“Agape has a strict ‘hands off’ policy regarding the students. This includes unruly students. Agape staff do not use corporal punishment.”** Ex. R, p. 20 (emphasis in original).

117. Techniques adopted by Agapé and its staff are inconsistent with the course of instruction provided by CPI. *CPI Nonviolent Crisis Intervention 2nd Edition with Advanced Physical Skills* defines “restraint” as:

“. . . a measure or condition that keeps someone or something under control or within limits that may include environmental and/or physical ways to manage a prevailing or perceived risk. Any physical hold or restraint utilized must be used as a last resort, and only when the specific danger that behavior/condition poses to self and/or others outweighs the risk of the hold or restraint. Staff should choose the least restrictive approach for the situation and constantly assess for the earliest safe opportunity to disengage.”

118. According to the *CPI Nonviolent Crisis Intervention 2nd Edition with Advanced Physical Skills*, overview of the risks of physical restraints:

“Despite any legal and professional justification, restrictive interventions are not free from risk, and as such professional staff have a duty of care to minimize the psychological and physiological adverse outcomes that are associated with such practice. When using restrictive interventions to manage the risks associated with an individual’s behavior, staff face the dilemma that the specific intervention used may compromise the welfare and safety of those involved, and as such it is important that restrictive interventions are applied within a context of best practice in order to minimize harm.”

Id. at p. 69.

119. According to the *CPI Nonviolent Crisis Intervention 2nd Edition with Advanced Physical Skills*, *Figure 3: Best-Practice Indicators* states, in part:

“As part of a restraint-reduction strategy, restrictive interventions should be used only when all other non-restrictive interventions have failed to manage the prevailing risk. Restrictive interventions should never be used as a punishment, to force control, gain compliance, or enforce rules.”

Id. at p. 72

120. According to the *CPI Nonviolent Crisis Intervention 2nd Edition with Advanced Physical Skills, Figure 3: Best-Practice Indicators*, prolonged restraints are discouraged. “In any situation where a physical restraint exceeds 10 minutes, staff must take all reasonable actions to end the restraint and seek an alternative non-restrictive intervention.” *Id.* at p. 73.

121. Instead of a restraint technique used to prevent injury and safeguard students, the techniques employed are instead used as a pain compliance form of punishment and discipline by Agapé. Staff Member 5 told CD during a January 21, 2021 in-person interview initiated by the CD that the restraints they do at Agapé are three-people restraints at best, but can be done with two. There are two guys on the arms and one on the legs. The restraints are supposed to hurt to discourage the kids from acting out again. According to Staff Member 5, he was trained in JCMT in 2002. JCMT is the restraint program they do at Agapé. Agapé leadership has firsthand knowledge of improper restraints yet they continue to allow the practice to continue at Agapé.

122. Agapé’s restraint practices directly contradict the “Best-Practice Indicator” as taught by CPI, and directly contradicts the “hands off” policy set forth in Agapé’s Parent Handbook. Ex. R, p. 20.

123. Conduct by Agapé staff members set forth in paragraphs 34-54 give rise to concerns that Agapé staff are restraining students in a manner that contradicts CPI training as well as Agapé’s own Parent Handbook. The conduct may also rise to the level of child abuse or neglect in that it often results in injury, and the described

restraints raise serious immediate concerns for the health and safety of the children at Agapé.

Criminal Charges and Recommended Charges based upon Conduct by Current and Prior Agapé Staff

124. On March 22, 2021, Governor Mike Parson directed the Attorney General's Office to assist in an investigation of Agapé. Judy L. Thomas and Laura Bauer, Missouri reform school investigation grows: Parson directs AG to investigate, *Kansas City Star* (Mar. 23, 2021), available at: tinyurl.com/ycys2zs3. Ex. C.

125. Approximately four months later, in August 2021, Attorney General Eric Schmitt recommended criminal charges against 22 current and former employees of Agapé with 65 counts on behalf of 36 victims, including felonies for abuse of a child and tampering with a victim, and misdemeanors for endangering the welfare of a child and failure to report child abuse. Letter from Missouri Attorney General Eric S. Schmitt to Missouri Governor Michael Parson (Sept. 23, 2021). Ex. D.

126. The Attorney General's Office was prevented from filing these charges against 21 of the 22 current and former employees of Agapé because the Cedar County prosecuting attorney retained jurisdiction and control over the cases.

127. In September 2021, the Cedar County prosecuting attorney filed criminal charges against five Agapé employees—far fewer than the number of charges recommended by the Attorney General. Five Missouri boarding school employees charged with abuse, AP (Sept. 28, 2021), available at: tinyurl.com/2p8supxz5. Ex. E. One individual charged by the Cedar County

prosecuting attorney is currently employed by Agapé and was listed on the most recent census report submitted by Agapé on September 22, 2022.

128. For the 22nd current or former employee of Agapé, the circuit court appointed the Vernon County prosecuting attorney as a special prosecutor due to a conflict. The Vernon County prosecutor requested the Attorney General's assistance in prosecuting the case.

129. On December 29, 2021, the Vernon County prosecuting attorney and Attorney General Eric Schmitt announced eight felony charges had been filed against the 22nd current or former employee of Agapé, a doctor in Cedar County. The doctor no longer works at Agapé. Press Release, "Attorney General's Office, Special Prosecutor File Eight Felony Charges Against David Smock, Including First and Second Degree Statutory Sodomy," Missouri Attorney General's Office (Dec. 29, 2021), available at: tinyurl.com/yxy5t6s7. Ex. F.

130. According to a federal indictment unsealed on August 30, 2022, Julio Sandoval, former dean of students at Agapé Boarding School, allegedly handcuffed and forcibly transported a minor from California to Agapé in August 2021. Press Release, "Department of Justice, Arrests Made For Transportation of Fresno County Teen to School in Missouri," (Aug. 31, 2022), available at: tinyurl.com/ycxpxvu2.

131. There has been a long history of allegations of abuse and neglect at Agapé, and those allegations have been recently coming to public attention and DSS's attention. Many child abuse and neglect allegations take years to come to light; a

critical mass of allegations coming to light at the same time is sufficient to constitute an “immediate health or safety concern” under § 210.1271.

132. DSS alleges Agapé students have suffered physical abuse through physical restraints, extreme workouts, long days of manual labor, food and water withheld as punishment, constant berating and mind games, and sexual abuse.

133. Agapé students, others close to the school, and at least one mental health professional have reported concerns to law enforcement and the state about possible abuse.

134. On information and belief, Cedar County Sheriff’s Department employs at least three people who work or previously worked at Agapé, including two full-time deputies. One deputy is a former Agapé student and is married to the daughter of Agapé founder James Clemensen. Clemensen’s granddaughter was a sheriff’s dispatcher in 2018 and 2019, and is married to the son of the doctor who previously provided medical care for Agapé students. Two deputies work off-duty for Safe, Sound Secure Youth Ministries, a company that parents can hire to transport their children to Agapé. Safe, Sound Secure Youth Ministries is owned by Julio Sandoval, former dean of students at Agapé, who has occasionally worked shifts at the county jail. Another deputy worked off-duty security for Agapé.

135. As of July 1, 2022, Agapé is no longer accredited by the Association for Christian Teachers in School and the National Council for Private School Accreditation, citing evidence that students at Agapé have been abused. Alviz-Gransee, *Agape Boarding School in Stockton loses accreditations amid sexual abuse*

investigations, Columbia Missourian (Jul. 18, 2022), available at: tinyurl.com/yzv7p785. Ex. G.

136. Agapé has failed over many years to stem the tide of abuse and neglect perpetrated at their school and ensure the health and safety of their students.

137. The culmination of all of these facts leads the Attorney General and the Department of Social Services to believe that Agapé Boarding School should be closed pursuant to § 210.1271. No other relief ensures the safety of the children residing at Agapé.

Agapé's suspected attempt to evade judicial review

138. Counsel for the State became aware on September 23, 2022 of information provided by Agapé's director in a conversation with a DSS employee the afternoon of September 22, 2022. DSS had requested an updated student and employee census pursuant to § 210.1264, RSMo.

139. Agapé's director reported that Agapé will have a max of 45 boys by Tuesday, September 27, 2022. There were 53 boys listed on the September 22, 2022 census. Ex. T.

140. Agapé's director further reported that any staff member with a mark beside their name on the census would no longer be working at Agapé after Monday, September 26, 2022. The State counted at least 12 names with marks beside them.

141. Finally, Agapé's director reported that the program is changing away from a boarding school-type facility. Starting Tuesday, September 27, 2022, the boys will be in five group homes on the property with an intention of nine boys per home.

142. Separately, counsel for the State learned late afternoon on Wednesday, September 21, 2022, that DSS received that morning a license-exempt residential facility application from Stone of Help. According to records filed with the Secretary of State's Office, two individuals currently listed on the Agapé employee list incorporated Stone of Help on September 15, 2022 for the purpose of "Home for Troubled Youth." The address for Stone of Help and the two listed owners is on the Agapé property and adjacent to the current Agapé Boarding School.

143. DSS employees present at the Agapé facility have heard students talking about being moved early next week.

144. The State has not received further information from Agapé regarding these planned changes.

145. The State will not allow Agapé to escape accountability or continue to present an immediate health and safety concern to children through corporate shell games while employing the same people and methods that originally led the State to bring this action to protect children.

***The Plaintiffs Will Suffer Immediate and Irreparable Injury, Loss, or
Damage in the Absence of the Relief Requested***

146. The State of Missouri as *parens patriae* has a long-standing, compelling interest to protect children and to act in their best interests. *Cannon v. Cannon*, 280 S.W.3d 79, 81 (Mo. banc 2009); *Thomason v. SCAN Volunteer Services, Inc.* 85 F.3d 1365, 1371-1372 (8th Cir. 1996) (quoting *Myers v. Morris*, 810 F.2d 1437, 1462 (8th Cir. 1987); accord *Stanley v. Hutchinson*, 12 F.4th 834, 840-841 (8th Cir. 2021). The State has few, if any, interests more important than protecting children from abuse.

C.S. vv. Missouri Dept. of Social Services, 491 S.W.3d 636, 656 (Mo. App. W.D 2016). The provisions of HB 557 (2021) that the Plaintiffs seek to enforce in this action are for the protection of children found within the state and must be liberally construed so as to provide the public protection intended by the General Assembly. *Frye v. Levy*, 440 S.W.3d 405, 412 (Mo. banc 2014). Courts are not to subordinate the purpose of the law to protect children to the interests of alleged perpetrators of child abuse or neglect. *Id.* at 412-413.

147. The Department of Social Services has statutory authority to establish the child protection system for the entire state and to conduct investigations of reports of child abuse and neglect. §§ 207.020, 210.109.1, and 210.109 through 210.188; *see generally* Chapters 210 and 211, RSMo.

148. The Department of Social Services has the statutory authority and responsibility to establish, implement and enforce: the requirement that license-exempt residential care facilities such as Agapé notify the Department of Social Services of their operations in Missouri, the requirement that certain persons associated with license-exempt residential care facilities complete background checks as required by law, to determine whether those individuals are eligible for presence or employment at those facilities, and to seek injunctive relief when these laws have been violated. §§ 210.493, 210.1250 through 210.1286 and especially 210.1271 RSMo.

149. The State, through the Department and the Attorney General, has the authority to seek enforcement of the legislature's statutory purpose, and that is especially true when the legislature has expressly provided by law that the state has

the authority to seek injunctive relief against license-exempt residential care facilities to enforce the background check requirements and to protect children when there is a concern for the health or safety of children served by the facility. *State ex rel. Hawley v. Pilot Travel Ctrs., LLC*, 558 S.W.3d 22 (Mo. banc 2018).

150. The legislature expressly authorized Plaintiffs to seek and this court to enter injunctive relief against a license-exempt residential care facility for violations of law. § 210.1271, RSMo.

151. The Plaintiffs will suffer immediate and irreparable injury, loss, or damage as *parens patriae* if the Plaintiffs are not afforded the relief requested, based on the allegations of fact and law specified in the other allegations in this Petition, for reasons that include, but are not limited to:

- a. The State has real, immediate concerns regarding the health and safety of the children at Agapé;
- b. The State has real, immediate concerns that children may be subject to further incidents of abuse or neglect, or may be victims of criminal conduct at Agapé;
- c. The Department of Social Services will be unable to enforce the law requiring certain individuals on the premises of Defendant Agapé successfully complete the background checks and to determine whether individuals are eligible for presence or employment at Agapé;

- d. In light of the past conduct, failure to comply with the law up to the present time and the current conditions the Department of Social Services has real, immediate concerns that children at Agapé may be subject to current and future incidents of child abuse or neglect, and their health and safety cannot be assured, should the Department personnel be withdrawn from their current presence at the facility;
- e. The State of Missouri, including the Department of Social Services and the Children's Division, can reasonably be expected to expend significant time and money in providing additional services and treatment, including receiving children for foster care and conducting additional child abuse and neglect investigations if more reports of child abuse and neglect at Agapé are received;
- f. The State of Missouri and the Plaintiffs, in its role as *parens patriae* suffers an immediate and irreparable injury, loss, or damage whenever a child within its borders is abused, neglected or is subject to circumstances in which the child is at risk of abuse or neglect; and when those responsible for the care, custody, control and supervision of children fail to comply with their duties under law to act in a way that protects the best interests and safety of children; and when the State is prevented from performing its duties under law to protect the safety and health of children.

- g. The State has real, immediate concerns that children will be moved into facilities without DSS access or knowledge, where they will be endangered by the same people and methods that initially led the State to take action.
- h. The State has real, immediate concerns that Agapé is attempting to move children, change its structure, and create new corporate entities to attempt to evade judicial review and accountability for its abuse and neglect and the immediate health and safety concerns it continues to pose to children.

Count I – Request for Injunctive Relief

152. Petitioner incorporates by reference all preceding paragraphs.

153. An immediate health or safety concern for the children at Agapé exists based on reports from current Agapé students regarding abuse and neglect by current Agapé staff members.

154. An immediate health or safety concern for the children at Agapé exists based on reports from former Agapé students regarding abuse and neglect by current Agapé staff members.

155. An immediate health or safety concern for the children at Agapé exists based on at least five current Agapé staff members having been found by DSS to have committed abuse or neglect against Agapé students, and one current Agapé staff member is facing criminal assault charges for actions against Agapé students.

156. An immediate health or safety concern for the children at Agapé exists based on at least seven individuals listed on the most recent Agapé “Employee list” having not completed mandatory criminal background checks.

157. An immediate health or safety concern for the children at Agapé exists based on incomplete information provided by Agapé about the individuals that it employs, that have access to the children, or that are present at the Agapé facility.

158. An immediate health or safety concern for the children at Agapé exists based on the apparent change in corporate structure and approach at the facility, which appears intended to evade judicial review and accountability for abuse and neglect.

159. Notice to Agapé would defeat the purpose of the order because the State has concern that Agapé would move children or take other action to evade judicial review before the order could be issued.

160. An immediate health or safety concern for the children at Agapé exists based on Agapé’s handling of a staff member being added to the state’s Child Abuse/Neglect Central Registry for abuse of a child at the Agapé facility. Even after Agapé was made aware of the staff member’s listing, Agapé continued to include the staff member on its employee list and allowed him to reside at the facility until exposed by the State.

161. Missouri law prohibits individuals from working or being present at a residential care facility if they have substantiated findings of child abuse or appear on the Child Abuse/Neglect Central Registry. § 210.493, RSMo. (An applicant shall

be ineligible for employment or presence at a residential care facility if he is “listed as a perpetrator of child abuse and neglect under sections 210.109 to 210.183 or any other finding of child abuse or neglect based on any other state’s registry or database,” *Id.* at § 210.493.11(4).)

162. Agapé’s harboring of an individual who is listed on the state’s Children Abuse/Neglect Central Registry, constitutes an “immediate health or safety concern” under § 210.1271.

163. Agapé employs and harbors other individuals who present an immediate health and safety concern for children residing at Agapé.

164. Agapé employs and allows to be present around students at least seven individuals who have not completed required background checks required by § 210.493, and thus Agapé has violated § 210.1271.1(3).

165. Current residents repeatedly expressed fear of retaliation for speaking with DSS and describe conduct that may constitute child abuse or neglect. This conduct raises immediate concerns for the health and safety of the children at Agapé.

166. Several civil lawsuits involving current Agapé employees allege conduct that could be abuse or neglect, specifically physical, emotional, and sexual abuse involving prior students of Agapé.

167. The Attorney General’s Office has uncovered evidence of criminal activity and DSS has uncovered evidence of child abuse and neglect at Agapé, which together also constitutes an “immediate health or safety concern” under § 210.1271.

168. Accordingly, Plaintiffs are entitled to injunctive relief pursuant to § 210.1271, RSMo, ceasing the operation of Agapé Boarding School or any relief necessary to ensure the safety of children, because the people of Missouri's rights are threatened, an adequate remedy cannot be afforded by an action for damages, the legislative purpose in enacting these provisions has been frustrated by Defendant's unlawful conduct, and Plaintiffs and the people of Missouri will be irreparably harmed in the absence of injunctive relief.

169. The Children's Division certifies to the court that it has a suitable, temporary emergency placement for the children; it is contrary to the welfare of the child to remain in the residential care facility; the Division believes that the parents or legal guardians of the children are not immediately available to take physical custody of the child within that time; and that the Division believes that there is no other temporary, suitable placement for the children.

Conclusion

WHEREFORE, Plaintiffs respectfully request that this Court:

- a. Cease the operation of Agapé Boarding School and provide for the appropriate removal of the children from Agapé Boarding School and placement in the custody of the parent or legal guardian or any other appropriate individual or entity in the discretion of the court;
- b. Refer the matter to the juvenile officer of Cedar County—or such other juvenile officers as needed due to the volume of children

residing at Agapé Boarding School—for the appropriate proceedings under Chapter 211;

- c. Enter an order directing Agapé Boarding School to immediately produce to Children’s Division all records (medical, educational) and contact information for the children’s parents or legal guardians.
- d. Enter an order allowing a Children’s Division worker to arrange an assessment of the child’s health, safety, and well-being, including medical and child advocacy center evaluations;
- e. To place the children at Agapé Boarding School in the temporary custody of the Children’s Division until their legal guardian arrives or refuses to pick up the child, in which case the children would remain in the legal custody of the Children’s Division;
- f. Issue a temporary restraining order, preliminary injunction and permanent injunction prevent Agapé Boarding School from moving students to new corporate entities that are mere continuations of Agapé Boarding School;
- g. Enter an order directing Agapé Boarding School to provide 24/7 access to DSS workers to ensure the health and safety of the children without notice;
- h. Enter a final judgment in Plaintiffs’ favor on all Counts in this Petition for Injunctive Relief; and

- i. Grant such other and further relief as the Court deems just and proper under the circumstances to ensure the health and safety of the students at Agapé Boarding School.

Dated: September 26, 2022

Respectfully submitted,

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