IN THE COURT OF COMMON PLEAS OF DELAWARE COUNTY, PENNSYLVANIA
CIVIL ACTION

DOMINIC BECK, Plaintiff	:	COURT OF COMMON PLEAS CIVIL DIVISION
v.	:	NO. CV-2021-007215
WILLIAMSON COLLEGE OF THE TRADES, MICHAEL J. ROUNDS, and THOMAS J. MOFFETT, Defendants	:	

ORDER ON PLAINTIFF'S PETITION FOR PRELIMINARY INJUNCTION

AND NOW, this 14th day of September, 2021, upon consideration of the Petition for a Preliminary Injunction (the "Petition"), filed on or about August 24, 2021 by Plaintiff Dominic Beck ("Beck") and the accompanying papers in support thereof[1], and the Memorandum in Opposition to the Petition (the "Opposition"), filed by Defendants Williamson College of the Trades ("Williamson"), Michael J. Rounds ("Rounds"), and Thomas J. Moffitt ("Moffitt", and together with Williamson and Rounds, the "Defendants") on or about September 2, 2021; having conducted a day-long evidentiary hearing on the Petition on September 3, 2021 (the "Injunction Hearing") at which witnesses for all parties testified and a variety of documents were admitted into evidence;[2] having considered the testimony and documents admitted at the Injunction Hearing and having reviewed the parties' submissions[3], as well as the relevant case

[1] These include the Brief in Support of the Petition, also filed on August 24, 2021, and the Reply Brief in Support of the Petition, filed on September 3, 2021.

[2] These included the following: P-A, P-B, P-C, P-H, P-I, P-J, P-K, P-N, P-O, P-P, P-Q, P-T.

[3] At the conclusion of the Injunction Hearing, the Court provided multiple opportunities to all parties to present oral arguments based on the record established at the Injunction Hearing, and/or to make supplemental written submissions. The parties declined to present oral arguments and represented that they would rely on the submissions they had made up to that point.

law, including but not limited to the standard applicable to the relief requested in the Petition and the burden that the law imposes on the party seeking injunctive relief; it is HEREBY **ORDERED** and **DECREED** that the Petition is **DENIED** as set forth below.

Beck, a rising third-year student at Williamson—a local, private, post-secondary school of approximately 265 students learning a technical trade—has brought claims against Defendants under the Pennsylvania Human Relations Act, 43 P.S. §§ 951-63 ("PHRA") and the Pennsylvania Fair Educational Opportunities Act, 24 P.S. §§ 5001-5010 ("PFEOA"), seeking to remedy alleged religious discrimination resulting from Defendants' failure to provide Beck an exemption from Williamson's vaccination policy, and for "wrongful expulsion" based on the same alleged conduct. See generally Compl. (Dkt. No. 2). In furtherance of those claims, Beck seeks immediate, preliminary and mandatory injunctive relief in the nature of an order requiring the Defendants to permit Beck to continue his studies at Williamson without complying with the school's vaccination policy.[4]

Defendants oppose the relief sought in the Petition, advancing a series of arguments, including but not limited to the following:

a. Beck has not exhausted his administrative remedies as required under both the PHRA and PFEOA before initiating a lawsuit in this forum, and none of the "narrow circumstances where exhaustion of remedies is not required", see Keystone ReLeaf LLC v. Pa. Dep't of Health, 186 A.3d 505, 513 (Pa. Commw. Ct. 2018), exists in this case.

b. Beck has no clear right to relief under the PHRA or PFEOA because he must establish more than just a sincerely held religious belief that he claims Defendants violated by failing to grant him an exemption

[4] Plaintiff confirmed at the Injunction Hearing that the relief he sought was a mandatory injunction. His pre-hearing submissions argued that he believed a mandatory injunction should issue. See Pl.'s Br. at 6 (noting applicable standard for mandatory injunction and asserting that he seeks to be admitted to his graduating class). As set forth herein, the Court finds that the evidence at the Injunction Hearing was insufficient to warrant injunctive relief.

from and/or accommodation to Williamson's vaccination policy. Instead, Beck must satisfy the burden-shifting analysis applicable to claims brought under comparable federal statutes for discrimination, either with respect to places of public accommodation or in the employment context. Under that analysis, a party asserting discrimination bears an initial burden of establishing a *prima facie* case; then the burden shifts to the defendant to show some legitimate, nondiscriminatory reason for its action; and then the burden shifts back to the plaintiff to prove that the defendants' purported reason was pretext for intentional discrimination.

c. Beck is unlikely to succeed on the merits of his common law "wrongful expulsion" claim.

d. Beck cannot establish that an injunction is necessary to prevent irreparable harm because delays in education services do not constitute irreparable harm.

e. An injunction requiring Williamson to allow Beck to matriculate without complying with the school's vaccine policy will not restore the parties to the status quo that existed prior to the failure to provide him with an exemption.

The evidence adduced at the Injunction Hearing established the following facts pertinent to the resolution of the Petition:

- Williamson is a private educational institution that is a place of public accommodation. This is not disputed.[5]

- At Williamson, approximately 265 students learn and work closely together and live exclusively on campus within close proximity to each other.

- Prior to the COVID-19 pandemic, Williamson had an immunization policy requiring students to obtain certain vaccinations prior to matriculation. Williamson

[5] The private nature of the institution is important, as private educational institutions are not legally required to afford their students the same breadth of constitutional protections that public colleges and universities must provide. This proposition is hardly controversial. See NCAA v. Tarkanian, 488 U.S. 179, 191 (1988) (recognizing well-established distinction between private and public conduct and the different constitutional protections in each context); accord Smith v. Gettysburg Coll., 22 Pa. D.&C.3d 607 (Pa. CCP 1982) (Fourteenth Amendment due process not applicable to private schools); see also Barker v. Trustees of Bryn Mawr Coll., 122 A.220 (1928) (court of common pleas lacked jurisdiction to compel reinstatement of a student dismissed from a private college). As such, private institutions have a greater ability to formulate and impose rules, regulations, and requirements (such as vaccine requirements) applicable to their students than their public school counterparts; indeed, Plaintiff recognizes this. See Pl.'s Br. at 11.

students have always had an ability to request an exemption from the policy.

- Beck identifies as Catholic. He has completed twelve years of secondary school, at a school he described as "private", and two years of post-secondary education at Williamson, where he began his studies in the Fall of 2019.

- Before Beck matriculated at Williamson in the Fall of 2019, he complied with Williamson's immunization policy, obtaining various vaccines to protect against meningitis, measles-mumps-rubella, tetanus, hepatitis-B, some or all of which were vaccines that he knew to have been developed by using aborted fetal cell lines.

- When a vaccine for COVID-19 became available in early 2020, Williamson included the COVID-19 vaccine as a prerequisite immunization for all students.

- Williamson provided students who objected to the COVID-19 vaccine the opportunity to request an exemption from the vaccine.

- In crafting its policy, Williamson intended for it to be facially neutral and applicable to all students. In addition, in light of the small congregate setting, Williamson intended the exemptions to create a narrow exception to the requirement that all students be vaccinated, particularly in light of the high risk of infection and harm presented by the COVID-19 virus and the resulting global pandemic.

- Rounds was the final decision maker with respect to whether to grant a requested exemption, but a small team of Williamson executives was involved in evaluating each request.[6]

- On May 9, 2021, Beck applied for an exemption to the vaccine policy, requesting that Williamson accommodate what he presented as a sincerely held religious belief that the COVID-19 vaccine was developed from aborted fetal cell lines and, as such, obtaining the vaccine would violate the teachings of his Catholic faith.

- Beck's exemption request did not include information that set forth that the Catholic faith prohibited its members from obtaining the COVID-19 vaccine.

- On May 18, 2021, Williamson, through its President, Defendant Rounds, rejected

[6] Plaintiff suggests throughout his submissions that the fact that Rounds was the sole and final arbiter of what Plaintiff describes as "unlawful and incompetent theological judgment on Catholic teaching", see Pl.'s Br. at 2, somehow renders improper Williamson's vaccination policy and the implementation thereof. But nowhere in his submissions does he reference any authority to support such a proposition. This could be because conventional guidance to institutions of higher education appears to suggest that the way in which Williamson considered accommodation requests for its vaccination policy was appropriate. See, e.g., *Higher Education Institutions' Guide to the Religious Exemption for the COVID-19 Vaccine*, Doreen S. Martin, Allison B. Gotfried and Taylor A. Bleistein, June 17, 2021 (counseling that, *inter alia*, requests should be reviewed on a case-by-case basis by either a single reviewer or a small group of decision-makers).

Beck's request for an exemption on the express basis of the "best interest of campus safety" and the "insufficient doctrinal evidence" that Beck's faith prohibited him from receiving a COVID-19 vaccine. See P-C.

- Williamson received a total of eight requests for a religion-based exemption to its vaccine requirement. It applied the same criteria to all requests, regardless of the faith of the requestor. It granted two requests based on the requestor's representation that the religion which the requestor espoused prohibited its members from receiving the COVID-19 vaccine.

- Both Beck and Dr. DiCamillo, a bioethicist who testified at the September 3 Hearing on Beck's behalf, agreed that the Catholic faith does not prohibit a professed Catholic from obtaining the COVID-19 vaccine, that the Catholic Church has deemed it morally permissible to receive the vaccine, and that an individual may choose to get the vaccine.

- Beck believes that he has been expelled from Williamson by virtue of the college's failure to allow him to attend classes without obtaining the COVID-19 vaccine.

- Beck believes that his inability to complete his education at Williamson during the 2022-23 school year will negatively impact his ability to obtain a job for which he would otherwise not be eligible without a Williamson degree.

- If a Williamson student misses ten days of class for any reason, he is disenrolled for that academic year.

- Williamson has advised Beck that the college will permit Beck to matriculate in the future, if he complies with the school's vaccination policy or if that policy changes.

- Beck, through various counsel acting on his behalf, was aware as early as June 2021 that, to the extent he disagreed with the Defendants' denial of his request for an exemption, he was obligated to raise his objections (and any claim of discrimination) with the Pennsylvania Human Rights Commission before initiating litigation in another forum. See P-I at 5.

- Beck never filed a complaint raising the allegations set forth in this action with the Pennsylvania Human Rights Commission.

The foregoing facts require the Court to reject the request for injunctive relief for failure to satisfy at least one, if not several of the six prongs that a movant must establish before an injunction may issue. Indeed, for a preliminary injunction to issue, every one of the six prerequisites must be established, and if the petitioner has failed to

establish any one of them, there is no need for the court to address the others. Summit Towne Ctr., Inc. v. Shoe Show of Rocky Mount, Inc., 828 A.2d 995, 1001 (Pa. 2003) (extensive internal citations omitted); see also Comm. of Seventy v. Albert, 381 A.2d 188, 190 (Pa. Commw. Ct. 1977) (preliminary injunction is harsh and extraordinary remedy, which can be granted only when and if each and every criteria has been fully and completely established). The Court addresses below all applicable factors where it is clear that Beck has failed to carry his burden.[7]

For a variety of reasons, Plaintiff's right to relief is *not* clear and, as such, he is not likely to prevail on the merits of the claims alleged. First, Plaintiff has not exhausted the administrative remedies as mandated by the PHRA and PFEOA. See 43 P.S. § 953; accord Clay v. Advanced Computer Applications, Inc., 559 A.2d 917, 919 (Pa. 1989); Chestnut Hill Coll. v. Pa. Human Relations Comm'n, 158 A.3d 251, 266 (Pa. Commw. Ct. 2017). As noted above, Beck was aware soon after the denial of his request for an accommodation in May 2021 and no later than June 2021 that the PHRA and PFEOA required him to file suit with the Pennsylvania Human Rights Commission before initiating a lawsuit in another forum. Instead of so doing, and because he believed that "pursuit of administrative remedies would be futile" and that "the Commission on Human Relations cannot provide the relief [he sought] on an emergent basis", see P-N, he ignored the mandatory statutory requirements and, on the eve of the beginning of the 2022-23 school year, filed this Petition.

[7] The failure to discuss a factor should not be construed as a finding that such other factor was established by Beck.

The Court rejects Beck's assertion that "the slow progress of administrative proceedings", see Pl.'s Br. at 20, would result in irreparable harm—the inability for Beck to return to school for his senior year—if the administrative proceedings are not resolved before the commencement of his senior year or soon thereafter.[8] For starters, a postponement of education does not give rise to irreparable harm. Schulman v. Franklin & Marshall Coll. 538 A.2d 49, 50 (Pa. Super. Ct. 1988) (student not irreparably harmed by suspension)[9]; see also Boehm v. Univ. of Pa. Sch. of Veterinary Med., 573 A.2d 575, 586 (Pa. Super. Ct. 1990) (reaffirming Schulman); accord Mahmood v. Nat'l Bd. of Med. Exam'rs, No. CIV.A. 12-1544, 2012 WL 2368462, at *5 (E.D. Pa. June 21, 2012) (delays in educational services do not constitute irreparable harm). Moreover, for purposes of a preliminary injunction, the claimed harm must be irreversible before it will be deemed irreparable. City of Allentown v. Lehigh County Auth., 222 A.3d 1152, 1160-61 (Pa. Super. Ct. 2019) (citing Greenmore, Inc. v. Burchick Constr. Co., 908 A.2d 310, 314 (Pa. Super. Ct. 2006)). The harm here is not irreversible since the record does not demonstrate that Williamson has foreclosed Beck's ability to return to Williamson at a

[8] The Pennsylvania Supreme Court has recognized only three exceptions to the exhaustion of administrative remedies requirement. See Keystone ReLeaf, 186 A.3d at 514. Plaintiff invokes the third exception: legal or equitable remedies are inadequate. Id. An administrative remedy is inadequate if it allows irreparable harm to occur to a plaintiff during the pursuit of the statutory remedy. Id.

[9] The Schulman Court rejected as premature plaintiff's argument—which is similar to Beck's in this case—that he would suffer irreparable harm because the defendant's actions would interfere with his future in obtaining employment and progressing in his chosen career. 538 A.2d at 51-52. Accord Knoch v. Univ. of Pittsburgh, 2016 WL 4570755 (W.D. Pa. 2016) (applying Pennsylvania law to reject plaintiff's argument that college's refusal to allow him to register so that he could complete his degree on time would cause irreparable harm in the nature of lost income, lost career experience, loss of continuity of education, because such potential injuries were not only speculative and not supported by the record, but also compensable by money damages). Moreover, both the Schulman Court and the Knoch Court noted that, to the extent the plaintiff would prevail on his claim for time lost in his education (due to defendant's actions), the remedy would be money dames. Schulman, at 52; Knoch, at *8. The existence of money damages for the alleged harm, of course, precludes issuance of injunctive relief.

future date to complete his education.[10] Accord, e.g., Schulman, 538 A.2d at 52 (denying request for injunction where student would have a delay in his educational process but would not lose the opportunity to complete his college training).

In addition, as noted above, Beck could have initiated the administrative process months ago but elected not to do so. Beck suggests that he chose not to pursue the required administrative remedy because he was uncertain that the Pennsylvania Human Rights Commission would timely—or ever—seek injunctive relief, based on its apparent failure to do so on behalf of "similarly situated persons." See Pl.'s Br. at 20. Neither the statute's mandatory exhaustion requirements nor the case law providing for narrow exceptions support a litigant's right to forum shop in the way that Beck appears to have done in this case. Beck's failure to abide by the mandatory exhaustion of administrative remedies provisions of the statutes he invokes in this case renders questionable his right to relief. As such, since Beck must demonstrate a clear right to relief in order to obtain injunctive relief, his Petition must fail.

Plaintiff's right to relief is not clear for other reasons as well. To establish a religious discrimination claim under the PHRA and/or PFEOA, a Court examines more than just whether the plaintiff has demonstrated a belief that is both sincerely held and religious and that a defendant's actions infringe on such a belief. Whether under a Title II analysis with respect to public accommodations (which appears to be the relevant

[10] Defendants maintain that Beck may return under certain circumstances. One circumstance is that a vaccine is developed without the use of fetal stem cells and Beck chooses to get such vaccine. Another circumstance is that the pandemic evolves, and Williamson determines that the COVID-19 vaccine is no longer necessary for its students. Lastly, Rounds testified at the Injunction Hearing that Beck could return to Williamson if the Catholic Church changes its stance on the COVID-19 vaccine and declares that it would be morally *impermissible* for a Catholic to receive the vaccine. In these instances, Beck would meet the standard to receive an exemption from Williamson's vaccination policy.

analysis for this case)[11] or a Title VII analysis (which applies in the employment context), Beck must establish—not merely recite or aver[12]—that the belief he holds, from which his objection to the vaccine requirement derives, is sincerely held and religious. He must also show that the non-discriminatory reason for Defendants' adverse action against him is a pretext for intentional discrimination against him. See, e.g., Kroptavich v. Pa. Power & Light Co., 795 A.2d 1048 (Pa. Super. Ct. 2002) (claims brought under PHRA analyzed under burden-shifting standards of their federal counterparts).

To begin, notwithstanding the fervent and zealous advocacy of Beck's counsel and the beliefs expressed and described by Beck's witness, Dr. DiCamillo, it is Beck's testimony and Beck's credibility that are central to his claims, as it is Beck's "sincerely held religious belief" that gives rise to them. In that regard, the Court questions the sincerity of Beck's belief that agreeing to receive the COVID-19 vaccine will compromise his ability to act in a way consistent with his Catholic faith. Beck conceded that he previously—and only within the past two years, prior to matriculating at Williamson in the Fall of 2019—obtained vaccinations whose origins he knew to be similar to the origins of the COVID-19 vaccines. Although Beck claims now, in retrospect, that he felt "coerced" by Williamson to accede to the requirement to obtain such vaccinations, the fact is that his present position with respect to his unwillingness

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[11] Sayed-Aly v. Tommy Gun, Inc., 170 F. Supp. 3d 771, 775 (E.D. Pa. 2016) (noting that 43 P.S. § 955(i)(1) is Pennsylvania's state-law analog to Title II of the Civil Rights Act).

[12] It strikes the Court as beyond cavil that a requirement to *establish* something requires more than just an incantation of a phrase, which any litigant could do. Moreover, at this stage of the proceeding, a litigant must go beyond merely alleging facts in a pleading or making statements in a legal brief in order to carry the high burden applicable to an injunction proceeding. Thus, for example, it is inaccurate to suggest, as Beck does, see, e.g., Pl.'s Br. at 8, that because the Complaint pleads various facts or conclusions, that a particular result must be presumed for purposes of an injunction analysis.

to get the COVID-19 vaccine is completely inconsistent (and indeed at odds) with his then-voluntary receipt of other immunizations which he did not decline to take for religious (or other) reasons. Moreover, the framework for Beck's claim of religious discrimination appears to be a more global—and non-religious—objection to "unprecedented restrictions on basic human freedoms" occasioned by the COVID-19 pandemic. See Pl.'s Br. at 2; see also id. at 2-3 (describing the "Factual Background" in a page-and-a-half-long diatribe that, inter alia, questions the legitimacy and efficacy of the COVID-19 vaccines and contends that restrictions on "basic human freedoms" are smokescreens for governmental pressures and coercion).[13] And although Beck asserts that he "does not challenge here the sheer irrationality of the nationwide campaign of vaccine coercion", see id. at 4, the Court cannot ignore the context Beck himself provides, and finds that it informs the sincerity—or lack thereof—of the professed "religious" objection to the COVID-19 vaccine.

Further, however, even if the Court were to accept that Beck's objection to the COVID-19 vaccine is religious-based and a sincerely held belief, Williamson offered a lawful, nondiscriminatory reason for the policy[14] (to protect the health and safety of its students and staff during a global pandemic and to better ensure the continued operations of the school during the 2021-22 school year) and demonstrated that it applied that policy in the same fashion, regardless of the identity or faith of the

[13] This "theme" resurfaces elsewhere in Plaintiff's submissions. See Pl.'s Br. at 12 (equating Defendants' objectionable conduct to the "so many other developments during the epoch of COVID-19"); id. at 16-17 (attempting to minimize the impact of the COVID-19 pandemic by arguing at length that COVID-19 generally poses "virtually no risk of serious illness or death" to college-age students).

[14] See, e.g City of Pittsburgh Comm'n on Human Relations v. DeFelice, 782 A.2d 586, 591 (Pa. Commw. Ct. 2001).

applicants who requested an exemption. The Court finds credible the testimony of Defendant Rounds and Williamson's Dr. Michael Zachary in that regard. Moreover, the Court finds credible the testimony of the Williamson witnesses with respect to their intent to craft and implement a policy that would at once protect Williamson students and respect an exemption-requesting student's sincerely held religious belief that their particular faith prohibited the receipt of the COVID-19 vaccine.[15]

Last, the Court finds that Beck presented no evidence whatsoever at the Injunction Hearing that would establish that Williamson's reasons for its denial of Beck's request for an exemption was a pretext for religious discrimination. See generally Hernandez v. Metro. Transit Auth. of Harris Cty., 673 F. App'x 414, 419 (5th Cir. 2016) ("In contrast to the minimal burden that a plaintiff bears when establishing his *prima facie* case, a plaintiff must produce "substantial evidence of pretext.""). Under Title II, where the complaint is based on allegations of religious discrimination, intent must be an element of the claim. Akiyama v. U.S. Judo Inc., 181 F. Supp. 2d 1179, 1184 (W.D. Wash. 2002). Any restriction imposed by a public accommodation could infringe on a person's religious beliefs and the fact that a proprietor has decided to offer services in a manner that may impact a religious belief, raises no inference of discrimination. Id;

[15] Williamson received eight requests seeking exemptions to its vaccination policy. Out of the eight requests, Williamson found only two students, both of whom were from different faiths than Beck and from each other, satisfied the requirements to obtain a religious exemption. Williamson's Dr. Zachary testified that those two students were granted an exemption because they provided published doctrine from their churches stating that receiving the COVID-19 vaccine *violates* their religious beliefs. See also Opp'n. at 27. The Court finds that Williamson's decision in granting these two exemptions was objective and that Williamson acted consistently in requiring compliance with its exemption requirements. Moreover, the Court rejects Plaintiff's suggestion that granting these two requests, while denying Beck's, was an "arbitrary and capricious" application of its policy. See Pet. ¶ 2. There is simply no evidence that the Defendants applied the Williamson policy arbitrarily or capriciously, that any of the Defendants acted irrationally or were motivated by bad faith or ill will, or that Williamson considered any single application differently from the others.

Accord Farrell Area Sch. Dist. v. Deiger, 490 A.2d 474, 477-79 (Pa. Commw. Ct. 1985) (rejecting discrimination claim under PHRA where complainant's evidence did not establish defendant had discriminatory motive, noting that evidence did not give rise to inference of *unlawful* discrimination) (emphasis in original). In this case, likewise, Plaintiff has demonstrated neither the required pretext nor intent. Instead, Plaintiff points out that Williamson's policies allow for the presence of unvaccinated individuals on campus (visitors nor goods and service providers are required to be vaccinated) and states that "the sole reason Plaintiff has been expelled from Williamson [is] that Defendant Rounds has decreed Catholics, Methodists, and Muslims must be vaccinated, while Baptists need not be." See Pl.'s Reply Br. at 10. This proffered reason—aside from being argumentative hyperbole unsupported by facts, as there was no such "decree" and Plaintiff has not been "expelled"—is a conclusory statement that, in the Court's view, does not establish pretext. Simply put, the Court finds that there is insufficient—if any—evidence to support a reasonable inference that Williamson acted with unlawful discriminatory intent.[16]

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[16] Further, as noted above, Williamson is a private educational institution, which is even less restricted than a public institution in terms of its ability to impose on its students vaccination prerequisites to enrollment. While there is a long line of case law upholding mandatory vaccination policies imposed by public entities with respect to educational institutions, see, e.g., Zucht v. King, 43 S. Ct. 24 (1922) (upholding city ordinance requiring that all students receive smallpox vaccination in order to attend public or private school); see also Klaassen v. Trustees of Indiana Univ., 2021 WL 3073926 (N.D. Ind. 2021) (denying injunctive relief and dismissing challenge to Indiana University's COVID-19 vaccine mandate); Klaassen v. Trustees of Indiana Univ., 7 F.4th 592 (denying motion for injunction pending appeal); Klaassen v. Trustees of Indiana Univ. application to United State Supreme Court for injunctive relief dated August 6, 2021 (denied flatly on August 12, 2021), there is no federal law that requires a private college or university to provide religious accommodations to their students. Moreover, the Court agrees with Defendants' argument that under Title II, a place of public accommodation has no duty to offer a reasonable accommodation. See Boyle v. Jerome Country Club, 883 F. Supp. 1422, 1432 (D. Idaho 1995) ("Those public facilities now covered by Title II are prohibited from discriminating against patrons on the basis of religion. To go beyond the intended language of Title II and require public facilities to affirmatively accommodate patrons' religious beliefs ... is not appropriate nor allowed under the applicable legislation."); see also Zinman v. Nova Se. Univ., No. 21-CIV-60723-RAR, 2021 WL 1945831, at *2 (S.D. Fla. May 14, 2021) (noting that the plaintiff failed to point to any authority indicating that Title II requires public facilities to *accommodate* religious beliefs and practices).

Beck also has not established that he will suffer irreparable harm absent the injunctive relief he seeks. As an initial matter, he waited until one week before the start of school to file his Petition and demanded an immediate hearing (citing the "automatic exclusion for a whole year looming if ten days of classes are missed", Pl.'s Br. at 5), despite intending to request such relief weeks earlier. See P-N at 4. Separate and apart from Beck's intentional sidestepping of the mandatory statutory requirement to file his claim first with the Pennsylvania Human Rights Commission, see supra, which he could have done as early as May 2021, Beck manufactured an emergency by delaying the filing of his Petition until the last possible minute. Delay in seeking injunctive relief negates the immediacy of the alleged irreparable harm. See FMC Corp. v. Control Solutions, Inc., 369 F.Supp.2d 539, 582 (E.D. Pa. 2005) ("An unreasonable delay in seeking an injunction negates the presumption of irreparable harm.").[17] Beck could have filed his Petition and then undertaken negotiations with the Defendants to attempt to resolve the matter. He chose not to do so. He cannot now lay blame for the prospect of immediate harm supposedly requiring emergent relief at the feet of Defendants.

As for returning the parties to their status quo, Plaintiff blankly asserts that by the

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Similar to Zinman, Beck alleges that Williamson has denied him an *accommodation* with respect to the vaccination policy in light of his purported sincerely held religious belief. Like the plaintiff in Zinman, Beck has failed to point to any authority indicating that Title II requires Williamson to accommodate his religious beliefs. Therefore, Beck cannot prevail on the theory that Williamson has failed to offer him a religious accommodation because Williamson has no duty to even *offer* the accommodation.

[17] Beck himself concedes, see Pl.'s Br. at 9, that the alleged irreparable harm from Beck's inability to commence his third year of studies at Williamson is not "irreparable harm". See also supra.(citing cases establishing that delay in education does not constitute irreparable harm and related damages are speculative and/or compensable via money damages).

Court's granting of the requested injunction, he will be restored to the status quo—"a senior in good standing with the college"—as it existed before Defendants denied his religious-based request for an exemption. This ignores the fact that prior to Defendants' denial of Plaintiff's request, Beck complied with Williamson's vaccination policy (where some of those vaccines also derived from aborted fetal cell lines). Compliance with Defendants' vaccination policy is the accurate status quo—not a status of good standing with Williamson, which derives from adherence to its policies. Thus, Beck has failed to establish that this injunction would restore the parties to the status quo. To the contrary; an injunction would alter it.

With respect to injunctive relief for the alleged "wrongful expulsion", Beck similarly fails to establish a clear right to relief and, as such, the relief cannot be granted. Despite characterizing Defendants' actions as having the impact of effectively expelling him from Williamson and concluding that he believes he has been expelled, there is no objective evidence of an "expulsion"; indeed, there is evidence suggesting that Williamson would permit Beck to return at some future point.[18] Nevertheless, Beck asks this Court for judicial intervention in the application of Williamson's religious exemption policy.

As an initial matter, characterizing Defendants' actions as an effective expulsion (particularly in the face of evidence to the contrary) does not make it so. See, e.g., Mahmood, supra (rejecting as speculative plaintiff's claim that defendant's actions in suspending her prevented her from completing her education and constituted a "de facto ban" on her becoming a physician). Moreover, courts typically do not interfere in a

[18] See supra n. 10.

private school's academic and disciplinary decision-making absent an *abuse of discretion*. Gati v. Univ. of Pittsburgh of Commonwealth Sys. of Higher Educ., 91 A.3d 723, 731–32 (Pa. Super. Ct. 2014) (emphasis added); Schulman, 538 A.2d at 52 ("The courts have been very reluctant to interfere with college proceedings concerning internal discipline"). The Superior Court explained in Schulman that a college must be "self-governing" and that courts should not intervene in that process unless "the process has been found to be biased, prejudicial or lacking in due process". Schulman, supra. Beck acknowledges this standard, but asserts that this is the precise case that needs judicial intervention to ensure due process and fundamental fairness.

The Court finds that the record shows otherwise—that Williamson complied with the procedure outlined in the exemption policy fairly and consistently—and declines Plaintiff's invitation to intervene. Notably, *none* of the cases Plaintiff cites (Schulman, Gati, Boehm, and Swartley v. Hoffner, 734 A.2d 915, 922 (Pa. Super. Ct. 1999)) resulted in his desired result of judicial intervention. Plaintiff tries in vain to distinguish himself from these cases, particularly Boehm (where the penalty imposed was only a one year suspension that would cause a delay in the student's education but not prevent him from completing his education), by asserting that Plaintiff has not suffered a mere suspension but an *expulsion*. Again, the Court rejects this characterization by Plaintiff, particularly since the evidence at the Injunction Hearing established that enforcement of Williamson's vaccination policy merely results in a delay in Beck's education. Also, similar to Boehm, Williamson strictly followed its religious exemption policy in denying Beck an exemption. Students at Williamson had notice that the school's vaccine requirement included the COVID-19 vaccine, as well as notice of the

exemption policy, since May 3, 2021. That policy required requests for religious exemption to include: 1) a statement of published doctrine from the student's religious group indicating that the vaccine *violates* their religious beliefs, and 2) a statement from a spiritual leader of the local place of worship indicating the student is a member of that faith. Williamson consistently followed that procedure and approved requests from students who provided those two pieces of information and denied requests from students who could not provide that information. In this proceeding, Beck has failed to establish that Williamson denied his request on a basis not specified in the exemption policy. Thus, Beck has no clear right to relief for "wrongful expulsion".

Having failed to carry his heavy burden on several of the six prerequisite criteria, Beck's request for the affirmative injunctive relief he seeks fails. As such, IT IS HEREBY **ORDERED** and **DECREED** that the Petition is **DENIED.**

BY THE COURT:

KELLY D. ECKEL, J.