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September 15, 2023

VIA EMAIL

Jennifer Birrell
Emond Harnden LLP
707 Bank Street
Ottawa ON K1S 3V1
Phone: 613-940-2740
Email: jbirrell@ehlaw.ca

Dear Ms. Birrell,

RE: Notice of Appeal of September 13, 2023 Exclusion Issued by Principal Scott Nichol

I am in receipt of a September 13th letter from St. Joseph's Principal, Scott Nichol (enclosed) addressed to Josh Alexander in which Mr. Nichol communicated his decision to enroll Mr. Alexander in RCCDSB, but to continue to exclude him in a manner similar to the 2022-2023 school year (the "Exclusion"). Mr. Alexander herein submits his notice of appeal of the Exclusion.

As you know, Mr. Alexander has a right to receive an education *free of discrimination*, including any form of religious discrimination. Principal Nichol's decision to exclude Mr. Alexander from St. Joseph's and restrict him to attending an "alternative classroom" elsewhere constitutes unlawful discrimination on the basis of Creed contrary to Ontario's *Human Rights Code* because it is in direct response to Mr. Alexander's Christian beliefs regarding sex and gender. Physically segregating someone because of their religious beliefs is a particularly repugnant form of discrimination.

Mr. Alexander remains unwilling to condone the unlawful, discriminatory actions of the School Board. He therefore rejects the Board's proposal he attend an "alternative classroom". Mr. Alexander has no less a right to learn in the same classroom as his peers as an *equal* student and without discrimination as a result of being a member of a religious minority.

Mr. Alexander proposes this latest appeal be heard together with his three other outstanding appeals.

Regards,

A handwritten signature in black ink, appearing to be 'JK', written in a cursive style.

James S.M. Kitchen
Barrister & Solicitor
Counsel for Josh Alexander

cc Scott Nicol, Principal, St. Joseph's High School (Scott.Nicol@rccdsb.ca)
Heidi Fraser, Superintendent of Educational Services (Heidi.Fraser@rccdsb.ca)

Enclosure



September 13, 2023

Private and Confidential

Josh Alexander



Re: Enrolment Register and Exclusion

Dear Josh:

Thank you for meeting with us on Thursday, September 7, 2023 to discuss your request for re-registration at St. Joseph's Catholic High School (the "**School**" or "**St. Joseph's**") for the 2023-2024 school term.

As you are aware, you were previously excluded from the School effective January 8, 2023 under clause 265(1)(m) of the *Education Act* and Regulation 474/00. While the exclusion remained in place for the balance of the 2022-2023 school year, you were not demitted from the enrolment register at that time. Rather, your name remained on the Board's enrolment register as the Board continuously tried to re-integrate you back into the education system through the many resources made available to you. We note that throughout that time, you did not avail yourself of the supports made available to you.

As per the Enrolment Instructions, you were informed on August 23, 2023 that the end of the 2022 - 2023 school year on August 31, 2023, triggered your removal from the Board's enrolment register.

Our September 7, 2023 meeting was for the purpose of obtaining information to complete your re-registration. During this same meeting, we sought to re-evaluate the concerns under the *Education Act* and its Regulations, and to that end, we sought your feedback regarding expectations for your return, similar to those previously communicated to you prior to and during the period of your exclusion from the School.

As you know, the original exclusion notice, and its continuation, were the result of your continuous challenge and threatening language in response to the expectations set for your return by the School's previous principal. We understand that this exclusion is currently the subject of an appeal.

During our meeting, we acknowledged your right to your opinions and beliefs. At the same time, we advised that it is essential that when we express our sincerely held religious beliefs, we do so in a way that is not hurtful and harmful to others. During our meeting, we expressed to you that we believed that we could do both things together. The expectations shared with you for a return to school were designed with a goal of meeting that balance. They are also informed by the *Ontario Human Rights Code* and the Ontario Human Rights' Commissions Policies on gender identity and gender expression.

During the September 7, 2023 meeting, you clearly stated that you do not intend to comply with these expectations. Specifically, you refused to agree not to use other students' dead names or preferred pronouns. You also maintained that you would continue to use derogatory terms such as "perverted" and "grooming" in describing the School and Board's washroom policy. In fact, at our meeting, you expressly stated that you believe "it is perverted" to permit transgender students (born biological males) to use female washrooms, as is permitted by the School and Board's washroom policy. Despite the principal's overall responsibility for safety and security of the school, you communicated that you would not agree to complying with all his directions.

During our meeting, we also reviewed with you a video posted on X (formerly Twitter) on August 11, 2023, with the caption "*Given the multitude of weak men that have corrupted our society, hard times are inevitable. Prepare accordingly*". The video showed you and two others shooting guns at a target in a wooded area. Given that your post has been interpreted as threatening in nature, we sought to understand your intentions. You confirmed that you viewed the former principal of St. Joseph's and others at the Renfrew County Catholic School Board as "*weak men*".

The *Education Act* provides that it is the duty of a principal to maintain proper order and discipline in the School and "*to refuse to admit to the school or classroom a person whose presence in the school or classroom would in the principal's judgment be detrimental to the physical or mental well-being of the pupils*". Further, Regulation 474/00 under the *Education Act* provides, among other things, that a "*person is not permitted to remain on school premises if his or her presence is detrimental to the safety or well-being of a person on the premises, in the judgment of the principal, a vice-principal or another person authorized by the board to make such a determination.*" I am also required to consider mitigating factors, including whether "*the pupil's continuing presence in the school does not create an unacceptable risk to the safety or well-being of any person*".

While we understand that you continue to disagree with these expectations, they are provided to facilitate your return and ensure the safety and security of all students. Your stated intentions on your return continues to foster a poisonous environment as set out in the Ontario Human Rights Commission policies.

Josh, after careful review of the information you provided during the September 7, 2023 meeting, I can confirm that you are now re-registered at St. Joseph's Catholic High School; however, you will not be permitted to return to St. Joseph's main campus. Instead, you will be registered in the alternative classroom located off the main campus as you are being excluded from St. Joseph's main campus **until the end of the 2023-2024 school year** unless we can reach agreement on terms for your earlier return.

Upon review of your answers during the September 7, 2023 meeting, I have determined that your presence in the School continues to meet the standard for exclusion established by the *Education Act* and Board policy. This determination is supported by the Superintendent of Educational Services. In addition to your unwillingness to cooperate with the stated expectations, there has been escalation in the tone and content of your online presence. This is especially of concern where you have explicitly stated that some of the more hostile language used in recent content applies to members of the School and Board's administration.

Please note that the exclusion is not a disciplinary measure, and that this decision was taken with considerable thought and caution, taking into account the current circumstances, your rights and those of other students.

I am hopeful that through our discussions, we can find a resolution that would permit your return to St. Joseph's main campus without delay, but in the interim, you are directed to not attend St. Joseph's main campus.

This decision is subject to an appeal. Notice of intention to appeal must be provided within (10) school days of the commencement of the exclusion. A copy of the Board's Policy: Safe Schools-Pupil Exclusion and Procedure: Pupil Expulsion Appeal are attached.

In the meantime, we remind you that you are legally required to receive an education until you reach the age of 18 or if you graduate prior to reaching the age of 18 as required by subsection 21 (1) of the *Education Act*. Your exclusion from St. Joseph's main campus does not absolve you of your legal requirement to receive an education. As such, we expect that you will attend, and avail yourself to the many supports that will be provided to you through the alternative classroom.

Please contact me at your earliest convenience to build a timetable for the alternate school.

Sincerely,

A handwritten signature in blue ink, appearing to read "Scott Nichol". The signature is fluid and cursive, with a large loop at the end.

Scott Nichol
Principal
St. Joseph's High School

CC. OSR, Heidi Fraser