

Court File No. DC-24-00002846-0000

*ONTARIO*

SUPERIOR COURT OF JUSTICE

BETWEEN:

**JOSHUA ALEXANDER**

Applicant

-and-

**RENFREW COUNTY CATHOLIC DISTRICT SCHOOL BOARD**

Respondent

APPLICATION UNDER section 97 of the *Courts of Justice Act*, section 2 of the *Judicial Review Procedure Act*, and section 68.01 of the *Rules of Civil Procedure*

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**APPLICANT'S APPLICATION RECORD**

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IN THE MATTER OF  
Part X and Part XIII of the Education Act,  
AND IN THE MATTER OF  
an Appeal of the following issued to Joshua Alexander:

20- day suspension confirmed December 20, 2022;  
4- day suspension issued on January 9, 2023;  
Exclusion order issued on January 8, 2023 and extended on January 26, 2023; and an  
Exclusion order issued on September 13, 2023 by the Principal at St. Joseph's High  
School, Renfrew

SUSPENSION & EXCLUSION APPEALS COMMITTEE DECISION

Background Information

Student Name: Joshua Alexander  
D.O.B.: 3/25/2006 Age: 17  
Student Number: 338-334-816  
School: St. Joseph's High School, Renfrew  
Grade: 12

RCCDSB Appeal Committee

David Howard (Trustee), Chair  
Anne Haley (Trustee)  
Pat O'Grady (Trustee)

Appeal Hearings

On Wednesday, November 15, 2023, from 9:00 a.m. until 5:00 p.m. and on Friday, November 17, 2023, from 9:00 a.m. until 6:00 p.m. at the Renfrew County Catholic District School Board Office the RCCDSB Appeal Committee heard the appeals.



Subject of the Appeals

1. There was a lot of time spent during the Hearing and in written submissions suggesting what this Appeal is about. In particular, Mr. Kitchen on behalf of Mr. Alexander spent a considerable amount of time in both his written and oral submissions detailing what he believed this Appeal is about. As such, it is important to explain what this Appeal is about and what it is not about.
2. Contrary to the submissions of Mr. Kitchen, this Appeal is not about religious beliefs, freedom of expression or any beliefs in general. It goes without saying that individuals are entitled to their beliefs, religious or otherwise.
3. This Appeal is not about a rally or the ability of anyone to organize or attend a rally. Anyone is entitled to organize or attend a rally, with the caveat that students are under a statutory duty to attend school during school hours.
4. This Appeal is not about reading or quoting the Bible, or any other text as suggested by Mr. Alexander. Again, any individual is entitled to read or quote scripture. In fact, as a Catholic school, staff read passages from the Bible daily during morning announcements.
5. This Appeal is not about the bathroom policy of the Renfrew County Catholic District School Board (RCCDSB) or anyone's views or opinions of that policy. Individuals are entitled to whatever views and/or opinions of the policy they hold.
6. To be abundantly clear, this Appeal is not about beliefs and/or opinions of any kind.
7. This Appeal is about behaviour and in particular, behaviour towards other people. While individuals are entitled to their religious beliefs, opinions, and views, what they are not entitled to do is act in a manner that disrespects, discriminates, insults, denigrates, harasses, bullies, or otherwise creates an unsafe environment for any person in the school. Beliefs, opinions, and views, no matter how genuinely held, cannot be used to justify treating any individual with disrespect or in any way that devalues them or makes them feel unsafe.
8. Our society, as enshrined in the Charter, is founded on the premise that all human beings are worthy of respect and dignity and are recognized as human beings to be treated equally. The Catholic Faith and faith-based education, express similar principles that all individuals are made in the likeness and image of God, worthy of respect and dignity. Behaviour that disrespects, devalues, and/or creates an unsafe environment will not and should not be tolerated. As per the Catholic Bishops of Ontario, 'Catholic schools should consciously create



an environment where students who feel marginalized, rejected or vulnerable can experience safe, nurturing, inclusive communities of faith.’

9. It is Mr. Alexander’s behaviour and actions towards others and not his beliefs that are the subject of these appeals.
10. It should also be noted that there have been concerns regarding the privacy of students and staff. Notwithstanding the clear directive of this Panel that the Hearing was closed and all documentary evidence was not to be released to anyone outside of the parties, that directive has not been followed by Mr. Alexander. As such, other than Mr. Alexander, any reference to any student or staff in this Decision will be by arbitrary initials which have no reference to any individual’s actual name.

#### The Appeals

11. There are 4 decisions under appeal. The parties both agreed that all appeals would be heard together. The 4 decisions are:
  - a. a 20-day suspension confirmed on December 20, 2022;
  - b. a 4-day suspension issued on January 9, 2023;
  - c. An exclusion order issued on January 8, 2023 and extended on January 26, 2023; and
  - d. An exclusion order issued on September 13, 2023.
12. It is important to note the reason these Appeals are only being heard now given the timelines in the RCCDSB’s policy on appeals. Mr. Alexander is under the age of 18 and any appeal had to be initiated by his parents. When Mr. Alexander took the position that he had withdrawn from parental control, the issue had to be determined by the Superior Court of Justice. Once the Court made its determination, the Appeals were then scheduled. At the request of Mr. Alexander, and on consent of all parties, the timelines in the applicable policies were waived to accommodate all schedules.

#### The 20-day suspension

13. It would appear from what was presented by both parties a discussion around the RCCDSB’s bathroom policy began in a law class in which various individuals presented their views and opinions. It appears the discussion involved the teacher, several students, and Mr. Alexander and it may have been a heated discussion. According to Mr. Alexander, the discussion continued into his math class.



14. According to Mr. Alexander's presentation, he had a meeting with the Principal to discuss the issue and in particular he indicated he was bringing forth issues raised by other female students regarding the bathroom policy. The Principal, quite rightly, indicated that any student with any concerns needed to speak to the Principal directly.
15. Mr. Alexander spoke to one student in particular, YZ, and they both subsequently arranged a meeting with the Principal. YZ then met with the Principal in private.
16. YZ testified at the hearing that she holds similar, if not the same, beliefs as Mr. Alexander. It should be noted that, even though YZ holds and expressed similar beliefs and opinions as Mr. Alexander, YZ has never been disciplined in any way, confirming that it is not the beliefs or opinions that are the subject of the discipline.
17. Mr. Alexander decided to organize a rally to convey his dissatisfaction with the RCCDSB bathroom policy. The issue for the school was not the organization of the rally. The issue was that in his advertising for the rally, Mr. Alexander referred to transgender students using the bathroom of their choice as "perverted." Moreover, he tagged the school in his online posts, suggesting that this rally may in fact be sanctioned by the school.
18. At this point in time, the Principal had information from other students that Mr. Alexander had used insulting and demeaning language towards transgendered students. It appeared as though his behaviour was motivated by bias. The decision to suspend and conduct an investigation was reasonable.
19. Over the course of the investigation, a number of students reported various concerns to the Principal about the behaviour and language used by Mr. Alexander. To provide just a few examples, students indicated that Mr. Alexander used the term "tranny" to refer to transgendered students. They reported that Mr. Alexander intentionally and repeatedly used a transgendered student's deadname and intentionally used the wrong pronouns. This was also confirmed by the testimony of YZ at the Hearing. It was also reported that Mr. Alexander referred to transgendered youths' use of the bathroom of the gender to which they identified as perverted, they were predators, and the bathroom policy was a "pedophilic agenda" suggesting that transgendered students were a risk to others.
20. One student reported that Mr. Alexander approached a transgendered student and asked if the student was a boy, a girl, or a cat. In Mr. Alexander's version of this event, he confirmed that the student was minding their own business and that he approached the student. Mr. Alexander acknowledged that of his own accord, he asked the student if the student was a boy or a girl and then when the student apparently "hissed" at him, he said "or a cat."

21. In his presentation, Mr. Alexander confirmed that he told a trans student that you could only be a man or a woman.
22. YZ in her evidence confirmed that in class, Mr. Alexander referred to a trans female student using a female bathroom as “perverted.”
23. Mr. Alexander acknowledged that he had used the term “tranny” but that he was unaware it was a derogatory term and that he did not use it again, although other students reported that he used the term on more than one occasion.
24. In her testimony, YZ stated that she had heard Mr. Alexander use a trans student’s deadname about 5 to 10 times.
25. In reviewing the material presented, it is clear that the information provided to the Principal confirmed that Mr. Alexander’s behaviour was bullying and harassing behaviour. This behaviour was undoubtedly motivated by bias towards an individual based on their gender identity.
26. It is also clear that Mr. Alexander posting on social media that the idea of transgendered students using the bathroom of the gender to which they identify was “perverted” was likewise bullying behaviour motivated by bias.
27. The *Policy on Preventing Discrimination because of Gender Identity and Gender Expression* published by the Ontario Human Rights Commission states that gender-based harassment can include, among other things: (a) derogatory language towards trans people; (b) insults, comments, that ridicule, humiliate or demean people because of their gender identity; (c) refusing to refer to someone by the self-identified name.
28. It is clear that based on the information provided to the Principal at the time, including the behaviour that Mr. Alexander admitted to in his presentation, the Principal had reasonable grounds not only to suspend Mr. Alexander but also that his behaviour fell within the categories of behaviour which the *Education Act* mandates a suspension. Mr. Alexander’s behavior falls under the umbrella of bullying and is also harassment based on gender identity. As stated, his behaviour was motivated by bias.
29. The Principal then provided Mr. Alexander and his parents with the opportunity to meet to discuss the investigation and what was reported. Mr. Alexander chose not to take the opportunity to meet with the Principal. The Principal made it very clear that should Mr.

Alexander choose not to attend a meeting the decision to suspend would be based on the information that was provided. While Mr. Alexander's parents sent a letter to the Principal, it did not address many of the concerns.

30. Mr. Alexander's presentation at the Hearing confirmed that his behaviour was bullying and harassment based on gender identity, and was motivated by bias. He confirmed that he approached a trans student and asked whether they identify as a boy, girl or cat. He used the word "perverted" in class. His own witness confirmed he deadnamed students on multiple occasions. He said he refused to use their chosen pronoun.
31. The *Education Act* requires consideration of mitigating factors which include: (a) the pupil does not have the ability to control their behaviour; (b) the pupil does not have the ability to understand the foreseeable consequences of their behaviour; and (c) the pupil's behavior does not create an unacceptable risk to the safety of another person.
32. The first two factors do not apply and Mr. Alexander did not make any submissions otherwise. In fact, he confirmed that he was aware his comments may be seen as offensive to many. He confirmed that he is obligated to tell his version of the truth even if that truth hurts.
33. As for the third factor, the Human Rights Commission has made clear about the harmful effects of these types of behaviours on a very vulnerable group of people. In addition, both parents and students confirmed to the Principal the harmful effect Mr. Alexander's behaviour was having on the school.
34. It is clear that all of the mitigating factors, including those required under Regulation 472/07 have been considered. None of the mitigating factors warrant a reduction of the suspension.
35. Accordingly, the Principal's decision to suspend is confirmed.
36. As for the conditions for return, the RCCDSB has a statutory duty and obligation to provide a learning environment for all students that is safe and is free from discrimination, bias, and harassment. For some reason, Mr. Kitchen seemed to suggest that a Catholic School Board somehow has different obligations or considerations. Any publicly funded school board has the same statutory obligations to provide a leaning environment that is safe and free from discrimination and harassment. It is clear based on the information provided to the Principal, the comments and behaviour of Mr. Alexander caused students to feel unsafe. The conditions imposed upon Mr. Alexander for his return to school were fair, appropriate, proportional, and moreover necessary to ensure that all students could feel safe and secure.



The conditions were not overly onerous and they should not have been particularly difficult for Mr. Alexander to follow.

37. For these reasons the suspension is confirmed and Mr. Alexander's appeal of this suspension is dismissed.

#### 4-day Suspension

38. The conditions imposed upon Mr. Alexander for his return to the school were clear. In fact, Mr. Alexander did not suggest that he did not understand the conditions but rather he simply disagreed with those conditions. Likewise, both Mr. Alexander and his counsel made it clear that it was clearly communicated by the Principal that Mr. Alexander was not to attend school on the first day back after the Christmas Break. Again, it was not a case of the direction not being understood but rather a disagreement about the prohibition.

39. Mr. Alexander attended the school contrary to the clear directions not to attend. Furthermore, Mr. Alexander confirmed that he ignored and disregarded both the Principal's and Vice-Principal's directions to leave the school.

40. Disregarding the administration's direction is not acceptable. For schools to function properly, students must follow the rules and directions of the school. Mr. Alexander felt as though he was not required to do so. He was asked to leave and he deliberately chose to ignore the directions of the Principal and Vice Principal. His actions were deliberate, wilful, and with the full knowledge that he was refusing to follow directions.

41. The decision to suspend was clearly reasonable and is confirmed. Mr. Alexander's appeal of the suspension is dismissed.

#### The First Exclusion Order

42. As mentioned, the conditions imposed upon Mr. Alexander for his return to school were few and in no way onerous. The conditions imposed (in summary fashion) were:

- a. Be respectful;
- b. Do not use a transgendered student's dead name;
- c. Not to have contact with the two identified transgendered students;
- d. For the two classes that he had with the transgendered students he would attend the student success centre for the remaining few weeks of the semester.



43. Mr. Alexander made it clear that he did not intend to follow these conditions. On January 8<sup>th</sup>, 2023 Mr. Kitchen wrote to the Principal indicating that Mr. Alexander would in fact be at school the next day. In his communication, Mr. Kitchen indicated that should the parties not come to an agreement for Mr. Alexander to attend the school, there would be a conflict the next day at the school.
44. In his submission, Mr. Kitchen argued that any reasonable interpretation of that communication would not lead one to believe that there would be any physical confrontation or that it was a threat of any kind. With all due respect, Mr. Kitchen's argument misses the point. The Principal has a statutory duty to maintain a safe learning environment for all students. Mr. Kitchen confirmed that Mr. Alexander's presence at the school would cause some kind of conflict. Whether that conflict is physical or not, or whether it relates to a threat of any kind, the fact remains that the Principal was provided with information that a conflict would ensue which would obviously negatively impact the school. Furthermore, the communication confirmed that Mr. Alexander would not abide by the suspension or the conditions of his return to the school. The Principal's decision to exclude Mr. Alexander was reasonable in the circumstances.
45. As for the extension, Mr. Alexander made it clear that he would not abide by the conditions. Again, his beliefs and views were not the issue. He was simply being asked to behave in a way that was respectful and did not harass others or create an unsafe school environment. The school has a statutory duty to ensure this for all students. Students had confirmed that Mr. Alexander's behavior made them feel unsafe.
46. Mr. Alexander confirmed that he would continue the behaviour that constituted bullying and harassment. The Principal could not permit a student who has clearly stated that they will continue the impugned behaviour to attend the school. To do so would be to allow a person's presence that would be clearly injurious to others at the school and detrimental to their well-being.
47. The Exclusion Order is upheld and Mr. Alexander's appeal is dismissed.
48. It must also be noted that because Mr. Alexander was excluded from the school, he was not prevented from his education. The school offered (and continues to offer) to provide the resources necessary for Mr. Alexander to continue with his schooling. His choice of not taking advantage of these resources is his choice and it is the reason why he has not continued with his education. The RCCDSB is clearly willing and able to support Mr. Alexander in completing his education.



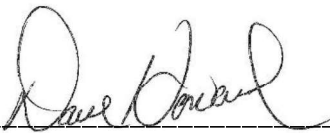
September 13<sup>th</sup>, 2023 Exclusion

49. A meeting was held in September of this year to discuss Mr. Alexander's return to the school. Prior to that meeting, a very disturbing video was posted by Mr. Alexander. This video was of Mr. Alexander and his colleagues shooting guns at a target. The target was a "human" target; what one would see at a firing range. In the background the song "Try that in a Small Town" by Jason Aldean was playing. The caption on the video reads, "*Given the multitude of weak men that have corrupted our society, hard times are inevitable. Prepare accordingly.*"
50. In his meeting with the Principal, Mr. Alexander confirmed that "weak men" included people at the school and the school board.
51. In his presentation, Mr. Alexander stated that "weak men" are dangerous and it was important for "strong men" to be more dangerous.
52. For some reason, Mr. Kitchen pointed out that Mr. Alexander was in the U.S. and exercising his Second Amendment right as a U.S. citizen. It is difficult to understand how, whether or not that was true, that in any way diminishes the impact of the message of that video. Mr. Alexander attempted to suggest he was not intending to make any kind of threat or that he was being violent in any way. He fails to understand how that video may incite others to violence.
53. Of particular importance, Mr. Alexander failed to explain why he created the video, why he posted it, or what message he was trying to convey.
54. It is unfathomable to think anyone would not construe that video as anything but a threat of violence or not believe that Mr. Alexander's presence at the school would not cause a significant safety concern. At the very least it is a call to those who may support Mr. Alexander. It was incumbent on Mr. Alexander to fully explain the video and provide reassurance that he did not pose a risk. He failed to do so.
55. In both his meeting with the Principal and his presentation before this Panel, Mr. Alexander confirmed that he:
  - a. Would not comply with pronouns of the trans student's choice;
  - b. Would not use the name of the trans student's choice;
  - c. Would not recognize the gender of their choice;



56. It is clear that Mr. Alexander continued to pose a safety risk to the school.
57. The Exclusion Order is accordingly upheld, and the appeal denied.
58. Mr. Alexander has argued that he is being discriminated against because of his religious beliefs. He spent considerable time in both his oral and written submissions quoting the Bible and outlining his religious beliefs and convictions. He is fully entitled to his beliefs. His beliefs are not being questioned nor is he being disciplined in any way because of his beliefs. As mentioned, YZ has similar beliefs, and she has never been disciplined. Furthermore, some of Mr. Alexander's beliefs align with the teachings of the Catholic Church on human sexuality and RCCDSB's own Family Life education curriculum. People are entitled to their beliefs. But what is indisputable is that no one can rely on their beliefs to justify the discriminatory, hurtful, disrespectful, or otherwise demeaning treatment of others. It is not about beliefs. It is about behaviour.
59. For all of the reasons, Mr. Alexander's appeals are dismissed.

Monday, December 18, 2023  
Date

  
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David Howard, Committee Chair