

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

JOSH ALEXANDER

Applicant

-and-

RENFREW COUNTY CATHOLIC DISTRICT SCHOOL BOARD

Respondent

APPLICATION RECORD
(Returnable on April 27, 2023)

March 22, 2023

James S.M. Kitchen
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Counsel for the Applicant

TO:

Jennifer Birrell, Emond Harnden
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Counsel for the Respondent

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Form 14E

Court File no. [CV-23-0000025-0000](#)

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

JOSH ALEXANDER

Applicant

-and-

RENFREW COUNTY CATHOLIC DISTRICT SCHOOL BOARD

Respondent

APPLICATION UNDER section 97 of the *Courts of Justice Act* and rule 14.05 of the *Rules of Civil Procedure*.

NOTICE OF APPLICATION

TO THE RESPONDENT:

A LEGAL PROCEEDING HAS BEEN COMMENCED by the applicant. The claim made by the applicant appears on the following page.

THIS APPLICATION will come on for a hearing by **video conference** at the following location:

Renfrew County Courthouse
297 Pembroke Street East
Pembroke, ON K8A 3K2

On [Thursday, April 27th, 2023 @ 10am](#)

Join Zoom Meeting: CIVIL (Room 197)

Zoom: <https://ca01web.zoom.us/j/66012101840?pwd=S3k4eXB3bIBMMnljdFhqZUV4L0dEUT09>

Or By Telephone 855 703 8985 Canada

Meeting ID: 660 1210 1840

Passcode: 478166

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or an Ontario lawyer acting for you must forthwith prepare a notice of appearance in Form 38A prescribed by the Rules of Civil Procedure, serve it on the applicant's lawyer or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in this court office, and you or your lawyer must appear at the hearing.

IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE APPLICATION, you or your lawyer must, in addition to serving your notice of appearance, serve a copy of the evidence on the applicant's lawyer or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in the court office where the application is to be heard as soon as possible, but at least four days before the hearing.

IF YOU FAIL TO APPEAR AT THE HEARING, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO OPPOSE THIS APPLICATION BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

Date ^{✓ 20th ✓ JM} March ~~17~~, 2023

Issued by _____
Local Registrar

Address of Court Office **Superior Court of Justice**
Renfrew County Courthouse
297 Pembroke Street East
Pembroke, ON K8A 3K2

TO: Jennifer Birrell, Emond Harnden
Glebe Chambers, 707 Bank Street
Ottawa, ON K1S 3V1
Tel: 613-940-2740
Email: jbirrell@ehlaw.ca
Counsel for the Respondent

NOTICE OF APPLICATION

RELIEF SOUGHT

1. A Declaration pursuant to section 65 of the *Children's Law Reform Act* that the Applicant, Josh Alexander has withdrawn from parental control and is an independent minor with all the statutory and common law rights and privileges required to unilaterally make all decisions regarding his education; and
2. A Declaration pursuant to section 65 of the *Children's Law Reform Act* that Josh Alexander has standing to appeal, in his own right and through counsel, all suspensions and exclusions issued to him since December 2022 by the Respondent, the Renfrew County Catholic District School Board.

FACTS

Background

3. Josh Alexander is a resident of [REDACTED], Ontario and a 16-year-old, grade 11 student at St. Joseph's Catholic High School in Renfrew County ("St. Joseph's"). He will be 17 years of age on March 25, 2023.
4. St. Joseph's is operated by the Respondent, the Renfrew County Catholic District School Board (the "School Board").
5. On November 23, 2022, St. Joseph's Principal Derek Lennox told Josh he was indefinitely suspended from school while Principal Lennox conducted an investigation. On December

20, 2022, Principal Lennox wrote to Josh and his parents to confirm a retroactive 20-day suspension had been issued to him.

6. Principal Lennox mentioned the suspension could be appealed to the School Board pursuant to Board policies and procedures, specifically the *Pupil Suspension Appeal* policy.
7. Desiring to explore his options and better understand his rights, Josh discussed his suspension with a mentor, who suggested Josh speak with a lawyer. On December 22, 2022 Josh spoke with James Kitchen and decided to hire Mr. Kitchen as his legal counsel.
8. Upon receiving advice from his counsel, Josh decided to appeal the December 20 suspension, and to do so in his own right as a 16-year-old who had withdrawn from parental control pursuant to section 1.1(b) of the School Board's *Pupil Suspension Appeal* policy.
9. On January 5, 2023, Mr. Kitchen wrote to School Board Superintendent Mary-Lise Rowat notifying her of Josh's intention to appeal the suspension pursuant to the *Pupil Suspension Appeal* policy. Mr. Kitchen advised Ms. Rowat that Josh had withdrawn from parental control and was pursuing the appeal in his own right through counsel.
10. On January 9, a second suspension was issued to Josh by Principal Lennox. Notice of Josh's intention to appeal this second suspension was also provided to the School Board.
11. On January 11, counsel for the School Board wrote to Mr. Kitchen taking the position that Josh's suspension appeal was not valid because he had not demonstrated he had withdrawn from parental control and therefore lacked standing to bring such an appeal.

12. On January 23, Mr. Kitchen wrote to counsel for the School Board explaining that Josh had effectively withdrawn from parental control on December 22, 2022, the day he hired counsel. Mr. Kitchen provided affidavits from Josh and his father providing details in support of Josh's claim he had withdrawn from parental control.
13. On January 26, the School Board decided to extend to the end of the school year a Notice of Exclusion issued to Josh on January 8 by Principal Lennox pursuant to section 265(1)(m) of the *Education Act*. Mr. Kitchen notified the School Board of Josh's intention to also appeal the extension of the exclusion.
14. On February 15, 2023, counsel for the School Board wrote to Mr. Kitchen confirming the School Board's refusal to hear the appeals brought by Josh based on the School Board's position Josh had not provided sufficient evidence he had withdrawn from parental control.

Withdrawal From Parental Control

15. Josh is nearing 17 years of age. He is uncommonly independent and autonomous for his age, and has been for some time. Even more unusual, his independence and control over all aspects of his life developed not out of a desire to escape the control of his parents, but as part of a purposeful, deliberative process as between himself and his parents in accordance with their mutual goal Josh become an independent young man at an early age.
16. Leading up to December 2022, Josh had been making most decisions regarding his education and all decisions regarding his employment and income, lifestyle and health, and expression of his religious beliefs and opinions, at school and elsewhere. Josh's parents

intentionally raised him to take control of his own life as early as was practicable and Josh gladly rose to the challenges and expectations of his parents in this regard.

17. With his independent choice to hire legal counsel on December 22, 2022, Josh's full withdrawal from parental control crystalized. Following December 22, Josh has made all decisions regarding his education for himself, free of any parental control. Josh exercises complete control over his religious participation, employment, finances, health, travel, social activism, public statements, media appearances, and instructing counsel.
18. This is not to say Josh does not seek out and highly value the insights and advice of his parents, as he continues to love and admire them and maintains a close, adult-to-adult style relationship with them. However, Josh's parents do not make any decisions for him and their guidance, while influential, is not determinative of how Josh decides to live his life.
19. For practical reasons, and due to the positive relationship Josh has with his parents, he continues to reside in the same house as his parents when he is not travelling.

LAW

20. Section 65 of the *Children's Law Reform Act* states, "[n]othing in this Part abrogates the right of a child of sixteen or more years of age to withdraw from parental control". This is a codification of the longstanding common law rule that a child who has reached the age of discretion has the right to withdraw from parental control.

21. The *Education Act* is clear a child of sixteen who has withdrawn from parental control has the right to act for himself in all matters of education and discipline, including to receive all correspondence and to make all appeals.
22. The courts have made declarations of a child's withdrawal from parental control where such declarations serve practical purposes.
23. Ontario courts have stated children who withdraw from parental control may live where they choose and that there is no recognition in Ontario law of a formal process for withdrawing from parental control. A child simply has to take control of the incidents of custody which include decision making regarding residence and education. Courts have further indicated it is acceptable, and perhaps even obligatory, for police and school authorities to recognize a 16- or 17-year-old's declaration of withdrawal from parental control without requiring the declaration be supported by documentary evidence.
24. As a matter of fact, withdrawing from parental control is a right exercised unilaterally by a child. It need not be supported by any other party and ought not be opposed by any other party, especially in the absence of the opposition of any parents. A child may engage the court's jurisdiction if faced with a government body which refuses to recognize the child's independence. The court will issue a declaration the child has withdrawn from parental control where doing so has practical utility and will resolve a live controversy. For example, a declaration was necessary in the case of a 16-year-old girl who required a declaration from the court that she had withdrawn from parental control in order to satisfy a university's requirement she be an independent minor in order to attend (*Re Glegg*, 2016 ONSC 5292, at paragraph 2).

ARGUMENT

25. Josh Alexander has declared to the School Board he has withdrawn from parental control. Providing such a declaration is made in good faith, nothing further is legally required on the part of Josh and the School Board is required by law to recognize Josh as having withdrawn from parental control for the purposes of his education, including bringing appeals of decisions made by the School Board regarding the suspension or exclusion of Josh.
26. Yet, the School Board has refused to accept Josh's declaration of withdrawal from parental control despite having been provided extensive evidence in support of his declaration by way of sworn affidavits from *both Josh and his father*. Although the consent or support of a child's parent(s) is not required at law, the fact Josh's father is in support of Josh's declaration of withdrawal from parental control and has provided sworn evidence in support thereof reinforces that, as a matter of fact, Josh's declaration is made in good faith and consistent with the reality of Josh's life.
27. The School Board has alluded to an unarticulated "test" that Josh has failed to meet. The fact is, no such test exists at law.
28. The School Board appears to ground its position exclusively in the fact Josh does not reside in a dwelling separate from his parents. However, not only is a separate residence not an indispensable requirement for a declaration of withdrawal from parental control, the School Board has ignored that Josh has demonstrated every other relevant factor which weighs in support of his declaration. Josh has taken control of the incidents of custody: employment,

income, lifestyle, health, relationships, religious beliefs, transportation, public and media statements, instructing counsel, and education.

29. As for residence, Josh *freely chooses* to reside in the same dwelling as his parents. His parents are not preventing him from residing elsewhere, rather, Josh and his parents have simply agreed that he will, for the time being, reside in their house.
30. While courts appear to have accepted that a mature minor living outside the parental home may be a *sufficient* condition for having withdrawn from parental control, courts have not ruled that living outside the parental home is a *necessary* condition of withdrawal from parental control.
31. The only statement of an Ontario court which may be pointed to as support for the notion a child occupying the parental home cannot withdraw from parental control occurs in *Gibson v Gibson*, 2020 ONSC 5506 at paragraph 34: “[the child] has not, however, withdrawn from parental control. He continues to live with his father”. However, in that case, the 17-year-old child left the matrimonial home with his father upon the breakdown of the marriage and there was no evidence to suggest the child sought in any way to withdraw from parental control. The case was about a child support dispute between the child’s parents.
32. Unlike the situations in any of the relevant cases, Josh enjoys a healthy and loving relationship with his parents. He is aware his decision to withdraw from parental control challenges the assumptions normally surrounding such a decision. For example, Josh is aware that in cases of withdrawal from parental control, typically some problem exists in the

home or with the parent(s) which sends the mature minor seeking to escape both the control and physical presence of the parent(s) in their life.

Conclusion

33. The School Board has relied on its unreasonable refusal to accept Josh's declaration of withdrawal from parental control as the basis for unlawfully refusing to accept the various appeals Josh has sought pursuant to School Board policies.
34. A Declaration from this Honourable Court confirming Josh's withdrawal from parental control is needed by Josh in order to establish he has standing to appeal the suspensions and exclusions he has suffered, and to compel the School Board to hear his appeals.

EVIDENCE TO BE RELIED ON

35. Affidavit of Josh Alexander.

STATUTES TO BE RELIED ON

36. The *Education Act*, RSO 1990, c E.2.
37. The *Children's Law Reform Act*, RSO 1990, c C.12.
38. The *Courts of Justice Act*, RSO 1990, c C.43.
39. The *Rules of Civil Procedure*, RRO 1990, Reg 194.

March 17, 2023

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RCP-E 14E (September 1, 2020)

JOSH ALEXANDER
Applicant and Moving Party

Court File No.

- and -

**RENFREW COUNTY CATHOLIC DISTRICT SCHOOL
BOARD**
Respondent

**ONTARIO
SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED AT PEMBROKE

APPLICATION/MOTION

James S.M. Kitchen
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Suite 224
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Phone: 986-213-6321
Email: james@jsmklaw.ca

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

JOSH ALEXANDER

Applicant

-and-

RENFREW COUNTY CATHOLIC DISTRICT SCHOOL BOARD

Respondent

AFFIDAVIT OF JOSH ALEXANDER

I, Josh Alexander, of [REDACTED] in the Province of Ontario,

MAKE OATH AND SAY:

1. I am a 16-year-old, grade 11 student at St. Joseph's High School ("St. Joseph's") in Renfrew, Ontario. I turn 17 on March 25, 2023.
2. I herein declare I have withdrawn from parental control, including, but not limited to, for the purposes of section 65 of the *Children's Law Reform Act* and section 309(1) of the *Education Act*. I declare my withdrawal took effect as of December 22, 2022, as the ongoing, deliberate transfer of control over my life to me from my parents reached its conclusion with my independent choice to hire a lawyer to represent me regarding the growing conflict between myself and the Renfrew County Catholic District School Board (the "School Board").

Background

3. The conflict with the School Board began on or about October 14, 2022, when a female student informed me a male student had walked into the female washroom while she was in there. She told me it made her feel uncomfortable. She said some of her peers feel the same way about males entering the female washroom.
4. On October 18, 2022, I expressed, in the context of classroom debates, views on gender and human sexuality that teachers and school administrators did not approve of – among them, the view males should not enter the female washrooms.
5. After several failed attempts to engage the school administration on the issue, I organized a student walkout in protest of the school policy of permitting males to enter the female washrooms. I announced the student walkout on November 18, 2022. The walkout was scheduled for November 25, 2022.
6. On November 23, 2022, I was suspended from school for an indefinite period of time by Principal Lennox.
7. On December 20, 2022, Principal Lennox wrote to my parents to confirm a retroactive 20-day suspension had been issued to me (attached as “**Exhibit A**”).
8. Desiring to explore my options and better understand my rights, I discussed my suspension with a mentor, who suggested I speak with a lawyer. On December 22, 2022, I spoke with James Kitchen and decided to hire Mr. Kitchen as my lawyer.
9. Upon receiving my lawyer’s advice, I decided to appeal the December 20 suspension, and to do so in my own right as a 16-year-old who has withdrawn from parental control pursuant to section 1.1(b) of the School Board’s *Pupil Suspension Appeal* policy (attached as “**Exhibit B**”).

10. On January 5, 2023, my lawyer notified School Board superintendent Mary-Lise Rowat of my intention to appeal the suspension as a mature minor who has withdrawn from parental control (attached as “**Exhibit C**”).
11. On January 6, 2023, my lawyer wrote to Principal Lennox explaining the conditions placed on my return to school were unlawful because they discriminate against me on the basis of my sincere (Christian) religious beliefs (attached as “**Exhibit D**”).
12. On January 8, 2023, Principal Lennox issued me a notice of exclusion by way of an email to my lawyer (attached as “**Exhibit E**”).
13. On January 9, 2023, I attended school. I did this because I thought it was wrong to tacitly condone what I honestly perceived to be religious discrimination and to comply with directions that were unlawful.
14. Later on January 9, the School Board’s lawyer stated the Board had no information to support my declaration I had withdrawn from parental control (attached as “**Exhibit F**”).
15. Also on January 9, Principal Lennox issued me a second suspension to run from January 10-13, 2023, as well as a trespass notice. Attached as “**Exhibit G**” is a letter dated January 9, 2023 from Principal Lennox to my parents.
16. On January 10, 2023, my lawyer wrote to the School Board’s lawyer, reminding them the school’s actions discriminate against me on religious grounds, and saying he hoped my agreement to not attend school that week would lead to my being allowed to attend school after that (attached as “**Exhibit H**”).
17. On January 11, 2023, the School Board’s lawyer wrote to my lawyer asking for evidence I had withdrawn from parental control, otherwise the School Board would refuse to accept my appeal of the suspension(s) (attached as “**Exhibit I**”).
18. On January 23, 2023, my lawyer wrote to the School Board’s lawyer explaining how I had withdrawn from parental control (attached as “**Exhibit J**”). Mr. Kitchen further

communicated I would not bully any transgender student upon my return to school and I expected to be treated by St. Joseph's in a non-discriminatory manner.

19. My lawyer provided the School Board's lawyer with an affidavit from myself (attached as "**Exhibit K**") and from my father (attached as "**Exhibit L**") in support of my declaration I had withdrawn from parental control.
20. On January 26, 2023, the School Board's lawyer wrote (attached as "**Exhibit M**") to inform my lawyer that my exclusion from school originally imposed on January 8 was being extended until the end of the school year and that the School Board continued to refuse to accept my declaration of withdrawal from parental control.
21. On February 6, 2023, I attended school. Similar to before, I did this because I thought it was wrong to tacitly condone what I honestly perceived to be religious discrimination and to comply with directions that were unlawful. Principal Lennox called the Ontario Provincial Police, who arrested me and drove me away from St. Joseph's.
22. On February 6, my lawyer notified the School Board's lawyer I intend to appeal my exclusion from school for the rest of the year. My lawyer confirmed I have withdrawn from parental control and stated we intend to pursue a remedy in court (attached as "**Exhibit N**").
23. On February 15, 2023, the School Board's lawyer wrote to my lawyer confirming its rejection of my position I have withdrawn from parental control (attached as "**Exhibit O**").

Withdrawal from Parental Control

24. I now make all my own decisions regarding my education, without any control from my parents, including and especially regarding the various suspensions and exclusions issued to me by Principal Lennox.

25. I have requested the School Board and the St. Joseph's administration communicate directly with me and/or my counsel, as the case may be, and no one else.
26. I desire to legally challenge all disciplinary actions taken against me by the School Board or St. Joseph's on my own and through my lawyer, without the involvement of my parents.
27. I have a healthy adult-to-adult relationship with my parents. I keep as my fixed address the same address as my parents, but I sleep there only occasionally. I travel and pay my own travel expenses, find my own sleeping arrangements and manage all of my interviews and meetings. I arrange, on my own, to meet with politicians and accept engagements. At times I seek my parents' advice, as many independent adults do; however, I decide matters for myself.
28. My parents, therefore, no longer have control over my life. This is not accidental, but rather deliberate. My parents have raised me since I was young with the goal I would become a responsible, independent young man capable of successfully managing all aspects of my life. I have embraced their goal for me in this regard and have increasingly exercised my independence, including in the areas of religious belief and practice, employment, finances, travel, health, lifestyle, social and political activism, and education.
29. For example, I have worked for multiple employers. In my most recent employment, I was promoted to be entrusted with the responsibility of closing the facility at the end of the night. I typically worked several days a week even while attending school.
30. As for my finances, I buy all my own clothes, food and other personal necessities. I manage my own money and online banking, and I have already begun investing from my own income stream. I also choose to support various causes through charitable donations.
31. I also have complete independence over my health and lifestyle choices. I decide when to go to bed and get up in the morning and schedule my days to include various routine

responsibilities such as cooking, grooming, and exercising. I make my own decisions regarding my body including my choice to abstain from premarital sex, drugs, and alcohol.

32. Over the course of the last couple of years, I have decided to be very active in social, religious, and political causes I care deeply about. I have taken the lead on initiatives that are important to me. I have recently been repeatedly interviewed by the media. I am also a member of multiple political parties and have volunteered my time for municipal, provincial, and federal elections. Although I almost always have my parents' blessing and gratefully accept any guidance they provide me, I have made all these decisions for myself. My parents have not attempted to direct me in these activities; I have directed myself.
33. Most importantly, as earlier stated, I now make my own decisions regarding my education. For some time now, I have decided the format of my education and have chosen what classes to enroll in. I manage my workload and do not receive help from my parents in this respect. I have done this not against my parents' wishes, but in accordance with their expectation I make educational decisions for myself.
34. This extends to my recent actions in advocating for a change to the apparent policy at St. Joseph's that biologically male students are permitted to enter the female washrooms. In speaking out about this issue, I did not seek my parents' permission, nor did they require me to. This extends to both my online statements and the expressions of my religious beliefs and views regarding sexuality and gender while at school.
35. As previously mentioned, I have exercised my autonomy and independence to retain and instruct legal counsel regarding the ongoing dispute between myself and the School Board.
36. Since the School Board will not accept I have withdrawn from parental control and there is no way for me to appeal their decisions absent such acceptance, I am applying to this

Court for a declaration that I have withdrawn from parental control so I can have my appeals heard by the School Board.

37. I swear this affidavit *bona fide*, for no improper purpose and in support of my application for a declaration from this Court that I have withdrawn from parental control.

SWORN BEFORE ME at City of Ottawa)

Ontario, this 16 day of March 2023.)





JOSH ALEXANDER

LEE F. CHITTY
Notary Public & Commissioner, etc.,
while a Barrister & Solicitor
Province of Ontario LSO #76539L
819-968-6946





December 20, 2022

Mr. and Mrs. Alexander

[REDACTED]
[REDACTED]
[REDACTED]

Re: Suspension for Josh Alexander (d.o.b. 03/25/2006) – Expulsion Not Recommended

Dear Mr. and Mrs. Alexander:

I am writing to you to report the results of my investigation following Josh's suspension from St. Joseph's Catholic H.S. on November 23, 2022. As you are aware, Josh was suspended pending the investigation into behaviours which required an investigation to determine if they warranted suspension and/or expulsion under *Education Act*, *Safe Schools Act* and Board Policy, as set out in more detail in a letter to you dated November 23, 2022.

As you are aware, despite extending several requests to meet with you and Josh as part of the investigation, you elected not to meet with me; however, you did forward correspondence to me on December 15, 2022 which I did consider as part of my investigation.

As a result of my investigation, I have concluded that Josh:

- made inappropriate comments to trans students;
- continued to refer to a trans student by their "dead name" and refused to recognize the gender they lived by;
- made comments that trans students were a risk to other students in reference to use of washroom facilities at St. Joseph's Catholic HS;
- made inappropriate comments with respect to trans students in the school and on social media which tagged St. Joseph's Catholic H.S.; and
- used a derogatory term in reference to a trans student.

This is Exhibit "A" referred to in the affidavit of Josh Alexander sworn before me at City of Ottawa this 16 day of March 2023.
A Commissioner for Taking Affidavits for Ontario


Following my investigation and consideration of the application of mitigating factors , I have decided not to recommend to the Discipline Committee that Josh be expelled, accordingly, Josh will not be subject to an expulsion hearing. However, my findings ultimately indicate that Josh's behaviour and activities warranted a suspension. As such, I have determined that Josh's suspension of 20 days should be confirmed. The grounds for the suspension are that Josh engaged in activities that are:

- bullying and harassment;
- injurious to the moral tone of the school or to the physical or mental well-being of others in the school; and
- "motivated by bias, prejudice or hate based on race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation, gender identify, gender expression, or other similar factor".

Should you wish to appeal the suspension, you must provide written notice of your intention to appeal the suspension to the Superintendent of Education, Mary-lise Rowat, within 5 school days of the receipt of this notice, i.e. by January 12, 2023. If you provide notice of your intention to appeal, you may contact the Superintendent of Education to discuss the appeal. Please be aware that an appeal does not stay the suspension. A copy of the Board's Student Discipline Policy, Procedures and Suspension Appeal Guideline are enclosed.

Please note that as a part of Josh's return to school, there will be a re-entry meeting with Josh and as parents you are welcome to attend. The purpose of the meeting is to identify the strategies and supports required to ensure that Josh's return to school is successful. We will also review expectations for respectful communications in a school environment. This meeting has been scheduled for 8:00 am Wednesday, December 21, 2022.

Sincerely,



Derek Lennox
Enclosure

CC. OSR, Mary-Lise Rowat, Superintendent of Educational Services



POLICY: Safe Schools – Pupil Suspension Appeal]

Category (Schools & Students)
Effective Date: October 28, 2001
Last Revision Date: (28-Oct-2014)
Page 1 of 7

POLICY: Safe Schools - Pupil Suspension Appeal

Rationale

The Board upholds the right of each student in our schools to be treated in a just manner which:

- reverences their dignity as whole persons, and
- safeguards the well-being of all members of the learning community.

As sharers in the Church’s evangelizing mission responsible to the believing community for the formation of its young members, and as a publicly funded educational institution, we strive to be truthful, transparent, and accountable in the disciplinary actions we undertake. In this way we are better able to ensure the integrity of our mission within a safe school learning environment.

The suspension appeal process set out in the Board Policy, Suspension Appeal, is consistent with the requirements of the Education Act and the Statutory Powers Procedures Act.

Personnel Affected by Policy:

Pupils, Parents, Teachers, Principals, Supervisory Officers, The Board

Organizational Authority:

The Board

Regulations:

Suspension Appeal Rights and Information (Education Act, s. 309)

Parties Entitled to Appeal:

The following persons may appeal, to the Board, a Principal’s decision to suspend a pupil:

- a) the pupil’s parent or guardian, unless
 - i) the pupil is at least 18 years old or
 - ii) the pupil is 16 or 17 years old and has withdrawn from parental control
- b) the pupil, if
 - i) the pupil is at least 18 years old or
 - ii) the pupil is 16 or 17 years old and has withdrawn from parental control;

This is Exhibit "B" referred to in the affidavit of Josh Alexander sworn before me at City of Ottawa, this 16 day of March 2023. J. Chutey Commissioner for taking Affidavits for Ontario

Schools to believe in!

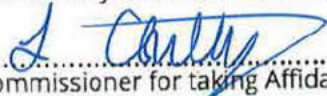
**JAMES S.M. KITCHEN
BARRISTER & SOLICITOR**

203-304 Main St S, Suite 224
Airdrie AB T4B 3C3
Phone: 986-213-6321
Email: james@jismklaw.ca

January 5, 2023

VIA EMAIL

Mary-Lise Rowat
Superintendent of Educational Services
Renfrew County Catholic District School Board
499 Pembroke St W
Pembroke, ON K8A 5P1
Phone: 613-735-1031
Email: Mary-Lise.Rowat@rccdsb.ca

This is Exhibit "C" referred to in the
affidavit of Josh Alexander
sworn before me at City of Ottawa
this 16 day of March 2023.

A Commissioner for taking Affidavits for Ontario

Dear Ms. Rowat,

RE: Notice of Intention to Appeal Suspension – Josh Alexander

I write as counsel for Josh Alexander, a 16-year-old grade 11 student at St. Joseph’s Catholic High School.

On December 20, 2022, Principal of St. Joseph’s, Derek Lennox confirmed a 20-day suspension (enclosed) issued to Mr. Alexander on November 23, 2022 (the “Suspension”).

Mr. Alexander herein appeals the Suspension pursuant to section 1.1(b)(ii) of RCCDSB Policy *Pupil Suspension Appeal* (the “Appeal Policy”). For the purposes of this appeal, Mr. Alexander has withdrawn from parental control, is a mature minor, and is competent to instruct counsel in the conduct of the appeal.

As the Suspension has already been served, there is no urgency regarding the timeliness of an Appeal Hearing. Mr. Alexander consents to a hearing date being set later than 15 school days from the date of this Notice and suggests a date be selected that is convenient for all the individuals involved, including his counsel.

Mr. Alexander herein also gives notice of his intention, pursuant to section 2.11(a) of the Appeal Policy, to request the Hearing Committee exercise its discretion to dispense with section 2.8 of the Appeal Policy and thereby open the hearing to the public. He submits the issues underlying the

appeal of the Suspension are matters of public interest and the public interest is best served by removing the hearing from the cover of secrecy. Mr. Alexander will consent to the anonymization of all names excepting his own and that of Mr. Lennox.

Mr. Alexander is agreeable to participating, alongside his counsel, in a settlement meeting as described in section 3.2 of the Appeal Policy.

Mr. Alexander requests the hearing be conducted electronically in accordance with the *Electronic Hearing Guidelines*. He suggests permitting up to 100 members of the public to attend the virtual hearing will satisfy the public interest in an open hearing in this matter.

Regards,



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

cc Derek Lennox, Principal, St. Joseph High School (Derek.Lennox@rcdsb.ca)


**JAMES S.M. KITCHEN
BARRISTER & SOLICITOR**

203-304 Main St S, Suite 224
Airdrie AB T4B 3C3
Phone: 986-213-6321
Email: james@jasmklaw.ca

January 6, 2023

VIA EMAIL

Derek Lennox
Principal
St. Joseph's Catholic High School
855 First St
Renfrew, ON K7V 4E1
Phone: 613-432-5846
Email: Derek.Lennox@rccdsb.ca

This is Exhibit "^D....." referred to in the
affidavit of Josh Alexander.....
sworn before me at city of Ottawa.....
this 16 day of March.....2023.

.....
A Commissioner for taking Affidavits for Ontario

Dear Mr. Lennox,

RE: Unlawful Conditions of School Attendance – Josh Alexander

I write as counsel for Josh Alexander, a grade 11 student at St. Joseph's Catholic High School. I require that you copy me on all written communication to Mr. Alexander. I also request you refrain from attempting to engage in substantive oral discussions with Mr. Alexander regarding his recent suspension or the conditions of his continued attendance at St. Joseph's unless I am in attendance by phone or videoconference.

As you well know, the issue underlying the conflict between Mr. Alexander and St. Joseph's is that Mr. Alexander has expressed beliefs and ideas some St. Joseph's students and teachers, who have the support of woke elites, disagree with. Under the guise of "safety", those who oppose Mr. Alexander's views regarding gender seek to censor, publicly humiliate, and exclude him. By suspending Mr. Alexander, you have wrongfully permitted your authority as principal of St. Joseph's to penalize students when appropriate to be captured by Mr. Alexander's ideological opponents and wielded as a weapon by them in their tyrannical bid to control culture and undemocratically cancel dissidents such as Mr. Alexander.

Conditions of Attendance at St. Joseph's

On December 20, 2022, you confirmed a 20-day suspension you issued to Mr. Alexander on November 23. An appeal of that suspension has been initiated.

You subsequently met with Mr. Alexander to discuss his “re-entry” on January 9, 2023, at which time you purported to impose a series of conditions Mr. Alexander must comply with in order to continue receiving education at St. Joseph’s (the “Conditions”). You confirmed the Conditions in an email to Mr. Alexander’s mother on or about December 29 (enclosed). The Conditions are:

1. Mr. Alexander must “limit” his “contact” with two transgender students;
2. Mr. Alexander must not use the “dead name” of any transgender students; and
3. Mr. Alexander is prohibited from attending two of his four daily classes because the two transgender students identified above attend those classes.

Needless to say, the Conditions are absurd and lack any basis in law. Although you, as principal, have wide latitude to direct the affairs of St. Joseph’s, your discretion and authority is limited by your obligations to be reasonable in your dealings with students and to not discriminate against students on the basis of their sincerely held religious beliefs.

The first Condition is hopelessly vague, and, absent the provision of particulars as to what is actually expected of Mr. Alexander regarding the two students in question, is unenforceable.

As for the second Condition, although it is not clear what is meant by the invented term “dead name”, insofar as this Condition requires Mr. Alexander to refer to students by whatever name they dictate, he is unable to comply. Notwithstanding your insinuations and suggestions to the contrary, Mr. Alexander has no intention of harassing or bullying transgender students, as those concepts are objectively understood and applied. However, he will not, and cannot, due to his sincere religious beliefs, knowingly speak a falsehood, such as acknowledging the fiction that people can change from male to female (or vice-versa) or can change to some other invented gender altogether. As a matter of his Christian beliefs, which happen to be consistent with biological truths regarding gender, Mr. Alexander believes all human beings, except in rare circumstances of developmental abnormality, are made by God as either immutably male or female. He has made known to you and others at St. Joseph’s that his expressed views regarding gender are fully informed by the Bible and his Christian beliefs arising therefrom.

Regarding the third Condition, excluding Mr. Alexander from classes for no other reason than because students who disagree with his religious beliefs and views about gender also attend those classes is patently unreasonable and unlawful. Most obviously, such exclusion is a repugnant form of religious discrimination.

Mr. Alexander respectfully declines to comply with the third Condition. He will attend all his classes upon his return on January 9. He is hopeful you will acknowledge this condition is both unnecessary and unjust. He requests you cease disingenuously suggesting his presence in class with transgender students raises any legitimate concerns regarding objective safety. If you insist on excluding him from class, he will be compelled to submit an application to the Ontario Human Rights Tribunal claiming discrimination on the basis of his sincere religious beliefs.

Any legitimate concerns you have regarding transgender students not being objectively bullied by Mr. Alexander have and will continue to be without merit. Mr. Alexander has not and will not

intentionally intimidate or otherwise harass any transgender student. However, he will not be responsible for transgender students unreasonably experiencing subjective feelings of offence or being “unsafe” as a result of Mr. Alexander expressing his religious beliefs, or expressing his opinions during class debates about gender and access to bathrooms by both genders simultaneously.

No reasonable person would conclude Mr. Alexander poses any risk whatsoever to transgender students. He will not—as he has not—seek out these students in social settings or during non-class time. However, if he is required to refer to these students during class, he will not, while making every attempt to be respectful, refer to a student in a way that acknowledges a purported gender change or the adoption of a gender that does not exist. The same applies if a teacher attempts to create a scenario to trap Mr. Alexander, which is possible based on the hostility of some teachers toward Mr. Alexander as a result of his beliefs and views regarding gender. Further, Mr. Alexander expects to be treated fairly and to the degree minor forms of jest, sarcasm, and satire are permitted of other students as part of class debates, he expects them to be permitted of him, regardless of the unpopularity of his views.

Conclusion

Mr. Alexander does not seek controversy for its own sake. But he will not be silent about his beliefs or his concerns for female students. If controversy is imposed upon him by those who oppose his viewpoints, he will not shy away from it. He prefers to work cooperatively with you on ways he can receive education at St. Joseph’s while being treated fairly that also allow you to achieve your objectives, whatever they may be. He is hopeful the involvement of counsel will encourage such cooperation. However, should you, St. Joseph’s teachers, or Renfrew County Catholic District School Board persist in unjustifiably interfering with his right to access education free of religious discrimination and unreasonable censorship, he will publicly oppose such interference and assert any legal claims he has.

In the event you wish to discuss the above, whether directly or through counsel, Mr. Alexander and his counsel will make themselves available.

Regards,



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

cc Mary-Lise Rowat, Superintendent of Educational Services (Mary-Lise.Rowat@rccdsb.ca)

Enclosure

...On Sunday, January 8th, 2023 at 7:54 PM, Derek Lennox <Derek.Lennox@rccdsb.ca> wrote:

James Kitchen,

I can confirm receipt of your email.

I will be happy to schedule a call with you next week to discuss this further. Josh's parents will need to be in attendance on the call. Based on the information provided, Josh has not withdrawn from parental control and therefore his parents must be involved in decisions concerning his education.

I am very concerned with your threat that "there will likely be an unfortunate and unnecessary conflict tomorrow, as Mr. Alexander's position as communicated in my letter to you of January 6 also remains unchanged". In the circumstances, you leave me no option but to exercise my authority under section 265(1)(m) under the *Education Act*, and section 3 (1) of Regulation 474/00 – *Access to School Premises*, to exclude Josh from St. Joseph's Catholic H.S. on the basis that his presence in the school or classroom would be detrimental to the physical or mental well-being of the pupils. As noted in the *Education Act*, Josh does have the right to appeal. Notice of intention to appeal must be provided within ten (10) school days of the commencement of the exclusion. The written notice must set out the grounds or reasons why the exclusion is being appealed.

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

I am hopeful that through our discussions, we can find a resolution that would permit Josh's to return to the school without delay, but in the interim period, he is directed not to attend St. Joseph's.

A copy of the Board's Policy: Safe Schools-Pupil Exclusion and Procedure: Pupil Expulsion Appeal are attached.

Derek Lennox
Principal
St. Joseph High School
835 First St.
Renfrew, ON
Tel 613-432-5846

This is Exhibit ".....^E....." referred to in the affidavit of Josh Alexander.....
sworn before me at city of Ottawa.....
this 16 day of March..... 2023.....
A. Chitt
A Commissioner for Taking Affidavits for Ontario

"Dear young people, do not bury your talents, the gifts that God has given you! Do not be afraid to dream of great things!" Pope Francis



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JENNIFER BIRRELL

✉ jbirrell@ehlaw.ca ☎ 613 940-2740

PRIVATE AND CONFIDENTIAL

VIA EMAIL

james@jsmklaw.ca

January 9, 2023

James S.M. Kitchen
Barrister & Solicitor
203-304 Main St S, Suite 224
Airdrie, AB T4B 3C3
Phone: 986-213-6321

Dear J. Kitchen:

Re: Josh Alexander

We have been retained by the Renfrew County Catholic District School Board (the "Board") in connection with the above-noted matter. Please direct all further communications in this matter to my attention.

Withdrawal from Parental Control

We understand that you are taking the position that Josh has withdrawn from parental control for the purposes of his suspension appeal. As previously noted by Principal Lennox, the Board does not have information from either Josh or his parents that supports this position. While we will address this issue more fully in separate correspondence, at this time, Matt and Nicole Alexander will be copied on our communications, as they continue to have a right to information and decision-making concerning educational matters until such time as a withdrawal of parental control can be established. If there has been withdrawal from parental control, they will not be legally entitled to receive information concerning Josh's education or participate in any decision-making concerning Josh's education.

Breach of Exclusion Notice

As you are aware, on January 8, 2023, Derek Lennox, the Principal of St. Joseph's Catholic High School (the "School" or "St. Joseph's") issued Josh a notice of exclusion under section 265(1)(m) of the *Education Act* and Regulation 474/00. While the exclusion was subject to appeal to the Board, pending any appeal or a withdrawal of the exclusion notice, Josh was not permitted to access School premises. As you are aware, pursuant to section 305 of the *Education Act*, it is an offence for an unauthorized person to enter or remain on School premises.

While Josh did not attend his morning classes today, we understand that in breach of the exclusion notice, Josh attended St. Joseph's for his afternoon classes. Further, when he was directed to leave, he refused. He also declined the Principal's directive to meet with him, even after there was a commitment to include you in the meeting by phone.

This is Exhibit "...^F..." referred to in the affidavit of Josh Alexander sworn before me at city of Ottawa this 16 day of March 2023.

J. Chelley
A Commissioner for taking Affidavits for Ontario



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As you know, the temporary exclusion notice was issued only after Josh continued to challenge the expectations set for Josh on his return and only after you issued the following threat: "Absent some sort of arrangement...there will likely be an unfortunate and unnecessary conflict tomorrow, as Mr. Alexander's position as communicated in my letter to you of January 6 also remains unchanged". 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". The Principal determined that Josh's presence in the School met this standard. It is not acceptable for Josh to flaunt the Principal's directions.

In the circumstances, and in face of Josh's continued defiance of the Principal's authority in the School, the Board will be issuing a Trespass Notice.

In addition, based on Josh's conduct at St. Joseph's today, the Principal will be issuing a further disciplinary suspension on the grounds of Josh's "persistent opposition to authority". These grounds will be detailed in the notice of suspension.

We will be communicating with you and Josh's parents shortly on next steps. In the interim, we would ask that Josh cooperate with the Principal's direction not to attend school while we are working through these issues.

Finally, we understand that Board correspondence to Josh has been published on the Liberty Coalition Canada website, along with other statements regarding the current situation. Please be advised that you do not have permission to publish this communication. Further, this letter is subject to copyright protections.

We note that the statements posted regarding the current situation are false, misleading and potentially defamatory. Contrary to what is suggested, Board staff have acted in good faith, performed their duties diligently and conducted themselves with the highest degree of competence. More specifically, School administrators have acted within the scope of the *Education Act*, as well as relevant Board policies.

Yours truly,
EMOND HARNDEN LLP
Per:

Jennifer Birrell
JEB/sjb

Patrick Twagirayezu

cc. Matt and Nicole Alexander [REDACTED]
Renfrew County Catholic District School Board



January 9, 2023

Mr. and Mrs. Alexander

[Redacted address]

Re: Suspension for Josh Alexander (d.o.b. 03/25/2006)

Dear Mr. and Mrs. Alexander:

It is my duty to inform you that Josh will be suspended from school, and all school activities, for a period of four days to be served on Tuesday, January 10th, 2023 to Friday, January 13th, 2023.

This suspension is warranted under section 306 (1) of the Education Act and Board Policy: *Opposition to Authority*. On Monday, January 9th, 2023, Josh attended school for his afternoon classes after being served an exclusion letter under section 265(1)(m) of the *Education Act* and Regulation 474/00. He additionally refused to meet with the Principal when asked to meet, as well as refused the direction of the Vice-Principal not to enter the classroom.

It is my sincere hope that we can work together toward Josh's success at St. Joseph's High School.

As a parent, you have the right to appeal this suspension. To do this, you must give written notice to Mary-Lise Rowat, Superintendent of Education Services, at the Renfrew County Catholic District School Board within 10 days of the commencement of this suspension. If you have any questions about this letter or its contents, please do not hesitate to contact me at the school (613-432-5846).

Sincerely,

Derek Lennox, Principal

CC. OSR, Mary-Lise Rowat, Superintendent of Educational Services

This is Exhibit "G" referred to in the affidavit of Josh Alexander sworn before me at city of Ottawa this 16 day of March 2023.

[Signature] A Commissioner for taking Affidavits for Ontario

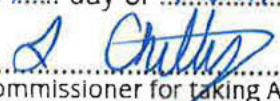
**JAMES S.M. KITCHEN
BARRISTER & SOLICITOR**

203-304 Main St S, Suite 224
Airdrie AB T4B 3C3
Phone: 986-213-6321
Email: james@jasmklaw.ca

January 10, 2023

VIA EMAIL

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

This is Exhibit "...H..." referred to in the
affidavit of Josh Alexander
sworn before me at city of Ottawa
this 16 day of March 2023.

A Commissioner for taking Affidavits for Ontario

Dear Ms. Birrell,

RE: Josh Alexander

I am in receipt of your letter of January 9, 2023, as well as the trespass notice and notice of suspension circulated by Mr. Lennox.

I will respond regarding the issue of withdrawal from parental control for the purpose of the appeal of the suspensions in due course.

I have spoken with my client and he will not attend St. Joseph's at least for the remainder of this week (January 10-13). Mr. Alexander regards the issuing of a further suspension and a trespass notice as an unnecessary escalation and extreme response to him simply attending classes so he can receive his education. But he is hopeful his non-attendance this week will encourage discussions that will result in him attending *all* his classes next week and going forward.

As was explained to Mr. Lennox, no "threat" was issued by way of counsel's communication to Mr. Lennox on January 8, and Mr. Alexander is disappointed the Board continues to disingenuously claim otherwise. Mr. Alexander was merely referring to the inevitable *non-violent* conflict which in fact materialized on January 9 when Mr. Lennox enforced his discriminatory exclusion of Mr. Alexander from his afternoon classes. This conflict could have easily been avoided had Mr. Lennox rescinded his unreasonable and discriminatory requirement Mr. Alexander not attend classes for no other reason than because transgender students who disagree with Mr. Alexander's religious beliefs would be present in these classes.

Regarding publication of correspondence with the Board, "permission" from the Board to do so is not required, as you well know. You can therefore expect publication of select communications with the Board to continue.

As for your letter of January 9 being "subject to copyright protections", Mr. Alexander will wait for 48 hours for you to provide support for such a claim, absent which he will proceed to disseminate and publish your letter at his discretion.

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



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JENNIFER BIRRELL

✉ jbirrell@ehlaw.ca ☎ 613 940-2740

PRIVATE AND CONFIDENTIAL

VIA EMAIL

james@jsmklaw.ca

January 11, 2023

James S.M. Kitchen
Barrister & Solicitor
203-304 Main St S, Suite 224
Airdrie, AB T4B 3C3

Dear J. Kitchen:

Re: Josh Alexander

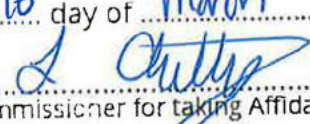
Thank you for your letter of yesterday's date and for the commitment from Josh to comply with the terms of the exclusion notice issued to him on January 8, 2023. We agree that Josh's compliance with the exclusion notice will provide the parties with an opportunity for discussions and hopefully a resolution of these issues.

The purpose of this correspondence is to respond to other issues raised in your recent letters. Once again, for the reasons set out below, Josh's parents, Matt and Nicole Alexander, are copied on this email.

Education During Operation of the Trespass Notice/Suspension

As you are aware, Josh attended St. Joseph's Catholic High School this Monday. While in the school, he acknowledged several times that he was aware of the exclusion order. He refused to leave despite several requests from school administration that he do so. In the circumstances, as he was not legally authorized to be in the school and refused to follow directions, he left administration with no choice in the matter but to issue the trespass notice and the further suspension letter.

While you indicate that he was looking to "receive his education", I do note that Josh has not responded to the numerous attempts by Student Success and his classroom teachers since November 2022 to offer support in the completion of his course requirements. Further, his attendance at the school on Monday appeared to be for the sole purposes of escalating matters. I note that he did not attend his morning classes, but only the afternoon classes where he was directed not to attend. He also arrived with few to no materials to conduct the work required in his classes, and was recording his interactions with administration.

This is Exhibit "^I....." referred to in the
affidavit of Josh Alexander
sworn before me at city of Ottawa
his 16 day of March 2023.

A Commissioner for taking Affidavits for Ontario



As noted in Principal Lennox' communication of January 9, 2023, the Board does wish to provide Josh with supports during his suspension and the operation of the Notice of Exclusion from school. We do urge him to avail himself of these opportunities.

Withdrawal from Parental Control

You have indicated that Josh has withdrawn from parental control "for the purpose of the appeal of the suspensions".

To be clear, there is no recognition in law of the withdrawal from parental control for limited purposes. In Ontario, there is a fact-based test in determining whether a student has either withdrawn from parental control or not. Where withdrawal from parental control has been established, the parents are no longer entitled to educational information or to participate in the decision making concerning their child.

As we noted, Josh's parents were actively involved in meeting with the Board in December 2022 and were communicating with the Board on educational matters concerning Josh. This behaviour is inconsistent with your statement that Josh has withdrawn from parental control.

To the extent that circumstances may have changed since December 2022, can you please provide, inter alia:

- Josh's current address
- A copy of the lease agreement or sub-tenancy agreement for Josh's current residence demonstrating that Josh is the tenant. Alternatively, please provide any other document that would support Josh is residing independent from his parent(s);
- Evidence that Josh is in receipt of his own source of income separate from his parents (i.e. pay stub, confirmation of social assistance payments, etc.) and is responsible for his living expenses (i.e. hydro bill, phone bill, etc.)
- Any records demonstrating Independence over life choices (i.e. independence over medical care and decision-making, etc.)
- A signed statement from Josh that he has withdrawn from parental control within the meaning of section 65 of the *Children's Law Reform Act* (the "CLRA");
- Any other records you wish to provide that will be of assistance in the review of this issue.

Should Matt and/or Nicole Alexander, who are copied on this email, wish to provide any information and/or documentation which is of assistance concerning Josh's withdrawal from parental control, they may do so. Should they wish, they may also provide a statement



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confirming that Josh has withdrawn from parental control within the meaning of section 65 of the *CLRA*).

On receipt of the above the Board will review whether there is sufficient evidence of withdrawal from parental control. If it is determined that Josh has in fact and law withdrawn from parental control, the Board will update its records accordingly and communications will be sent to Josh only at his new address. Absent withdrawal from parental control, Josh's parents will continue to be permitted to make inquiries and to be given information about his education in accordance with s 20(5) of the *CLRA*.

No Valid Suspension Appeal

As you are aware, a pupil may only appeal a principal's decision to suspend a student under section 306 of the *Education Act* where the student is at least 18 years old or "is 16 or 17 years old and has withdrawn from parental control". Otherwise, the right to appeal a suspension issued under the *Education Act* belongs exclusively to the pupil's parent or guardian.

Accordingly, in the absence of demonstrated withdrawal from parental control, your letter to the Board dated January 5, 2023 issued on behalf of Josh does not constitute a valid suspension appeal.

Should Josh's parents wish to appeal the suspension, they may do so by communicating with the Board within the timelines set out in Board's policy and the letter dated December 20, 2022. Alternatively, if you have been retained by Josh's parents, please confirm prior to the expiry of the time limits for filing a suspension appeal whether your Notice of January 5, 2023 was issued on behalf of Matt and Nicole Alexander.

On receipt of a valid suspension appeal, we can address the other issues raised in your letter of January 5, 2023, including conduct and timeline for the hearing.

Publication of Records

As we have previously noted, Josh has actively engaged in publicizing his suspension from the board, including the publications on YouTube, on the Liberty Coalition Canada website, in the January 9, 2023, *Western Standard* article and other media events, as well as on Twitter. While you have suggested that there has been "public humiliation", any personal impact has been Josh's own doing.

Should Josh truly wish to resolve these issues as indicated, we respectfully suggest a private meeting with you, Josh's parents, the Board and legal counsel to address a plan of action for Josh for the balance of the school year. This would include measures to assist Josh in fulfilling his current course requirement prior to exams scheduled at the end of first



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semester. The Board remains open and willing to engage in productive discussions, and as such, we invite you to propose whatever solution you might have in mind to address the current situation. It is however important to note the Board's expectation, as is the case for any student, that Josh will respect directives issued by the administration and members of the school staff at all times.

Copyright

While there is no requirement in law that further information be provided, please see the *Copyright Act* RSC, 1985, c. C-42.

Yours truly,
EMOND HARNDEN LLP
Per:

Jennifer Birrell
JEB/be

Patrick Twagirayezu

cc. Matt and Nicole Alexander [REDACTED]
Renfrew County Catholic District School Board

**JAMES S.M. KITCHEN
BARRISTER & SOLICITOR**

203-304 Main St S, Suite 224
Airdrie AB T4B 3C3
Phone: 986-213-6321
Email: james@jasmklaw.ca

Exhibit ".....^J....." referred to in the
Affidavit of Josh Alexander
made before me at Ottawa
16 day of March.....2023.

Notary Public for taking Affidavits for Ontario

January 23, 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: Josh Alexander

I write further to your letter of January 11, 2023 and in light of the failure to negotiate a resolution to the January 8 Notice of Exclusion and January 9 Trespass Notice.

Although Mr. Alexander has effectively complied with the Notice of Exclusion and Trespass Notice, he does not condone the Renfrew County Catholic District School Board's (the "Board") actions in issuing these Notices as lawful and regards these actions as further instances of unlawful religious discrimination.

Return to School

Mr. Alexander will be returning to school upon the expiry of the Trespass Notice and on the first day of the next semester. It is his expectation he will no longer be discriminated against on the basis of his religious beliefs by way of, but not limited to:

- Attempted censorship by teachers of his expressed beliefs about Biblical sexuality and gender during class debates (i.e. people are one of either two genders and cannot change from one gender to the other, and boys must not be permitted to enter girls' private spaces as a matter of morality, modesty, and safety);
- Penalization of his statements regarding the above beliefs, whether expressed at school or online;

- Retaliation against his expressed opposition to St. Joseph’s policy of permitting biological males to enter the girls’ washrooms, whether expressed at school or online;
- Exclusion from attending classes in-person in response to expressing the above beliefs, whether under the pretense of preventing “bullying”, ensuring the “safety” of transgender students, or any other “woke” excuse inconsistent with objective reality; and
- Unreasonable demands he violate his religious beliefs and participate in compelled speech by referring to students with pronouns or names that are not consistent with students’ biological sex.

Mr. Alexander remains committed to not bullying any student at St. Joseph’s, as that term is objectively understood, including transgender students. He maintains his rejection of the Board’s accusation he engaged in bullying behaviour toward any student at St. Joseph’s.

As previously mentioned, Mr. Alexander is not responsible for transgender students unreasonably experiencing subjective feelings of offence or being “unsafe” as a result of Mr. Alexander expressing his religious beliefs or expressing his opposition to St. Joseph’s policy of permitting biological males to enter the girls’ washrooms. He expects the respectful expression of his religious beliefs regarding Biblical sexuality and gender to be tolerated by the School, not met with attempts at censorship by staff and/or students that disagree with his beliefs. Mr. Alexander suggests that any intelligible understanding of diversity, inclusion, and equality precludes intolerantly excluding or silencing his beliefs merely because they lack popular support or are found by some to be offensive.

Mr. Alexander expressly reserves the right to include in his forthcoming human rights complaint against the Board any further instances of religious discrimination he experiences as a result of the actions of St. Joseph’s staff or Principal Lennox.

Withdrawal from Parental Control

Josh Alexander has withdrawn from parental control, effective December 22, 2022. Enclosed are affidavits from Mr. Alexander and his father declaring he has withdrawn from parental control and discussing examples that demonstrate the lack of parental control in Mr. Alexander’s life over the last several months.¹

My client expects the Board will no longer refuse to accept his notices of appeal of the suspensions issued to him on November 23, 2022 and January 9, 2023 on the basis he lacks standing to bring the appeals.

You have asserted there is a “fact-based test” for determining whether a student has in fact withdrawn from parental control, yet have not indicated what you believe the relevant factors are or cited any relevant authority. As it is, there are no factors listed in the relevant legislation.²

Withdrawal from parental control continues to be a matter of discretion and governed by the common law. As the Ontario Court of Appeal stated in 2017:

¹ Sworn copies will be provided shortly.

² See *L. (N.) v. M. (R.R.)*, 2016 ONSC 809 at paragraph 123.

Once a child declares an intention to withdraw from parental control, her independence may — as it was here — be recognized by the police and the schools.

...

...Ontario law does not have a formal process for withdrawing from parental control. The child simply has to take control of the incidents of custody which include decision making regarding residence and *education*.³

While Mr. Alexander has chosen to continue to live in the same dwelling as his parents, he exercises control over his employment, his income, his lifestyle choices, his educational choices, his statements at school, online, and publicly, his media appearances, and his choice of counsel. On balance, in fact and in law, Mr. Alexander has withdrawn from parental control. There is no support in the case law for the proposition that a 16-year-old *must not* live in the same dwelling as his parents as a precondition to withdrawing from parental control.

Contrary to your assertion, Mr. Alexander's notice of appeal of his November 23, 2022 suspension, served on January 5, 2023, is a valid appeal pursuant to section 1.1(b)(ii) of RCCDSB Policy *Pupil Suspension Appeal*. He therefore expects the Board will proceed with scheduling a hearing of said appeal.

Regards,



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

³ *G. (R.) v. G. (K.)*, 2017 ONCA 108, at paragraphs 44-45 [emphasis added].

IN THE MATTER OF Josh Alexander v Renfrew County Catholic District School Board

Affidavit of Josh Alexander

January 23, 2023

James S.M. Kitchen
Barrister & Solicitor
203-304 Main St S, Suite 224
Airdrie, AB T4B 3C3
Email: james@jsmklaw.ca
Phone: 986-213-6321

Counsel for Josh Alexander

This is Exhibit "K" referred to in the
affidavit of Josh Alexander
sworn before me at city of Ottawa
this 16 day of March 2023.
A Commissioner for taking Affidavits for Ontario

AFFIDAVIT OF JOSH ALEXANDER

SWORN ON JANUARY 23, 2023

I, Josh Alexander, of [redacted] in the Province of Ontario, have personal knowledge of the following or I am informed and do verily believe that:

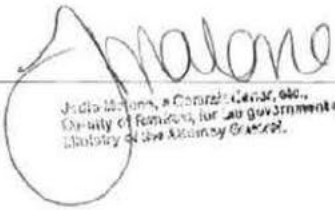
- 1. I am 16 years of age and a student at St. Joseph's High School ("St. Joseph's") in Renfrew Ontario.

2. I herein declare I have withdrawn from parental control, including, but not limited to, for the purposes of section 65 of the *Children's Law Reform Act* and section 309(1) of the *Education Act*. I declare my withdrawal took effect as of December 22, 2022, which was the day I decided to hire a lawyer to represent me regarding the growing conflict between myself and the Principal of St. Joseph's.
3. I make almost all decisions regarding my education for myself, without any control from my parents. I respectfully request Renfrew County Catholic District School Board (the "School Board") and the St. Joseph's administration acknowledge I have withdrawn from parental control and communicate directly with me and my counsel, as the case may be. I further and specifically request the School Board recognize my right and standing to appeal or otherwise legally challenge all disciplinary actions taken against me by the School Board or St. Joseph's.
4. I love my parents and they love me. I have chosen to still live in the same house as them and have an excellent relationship with them. However, although I often seek and value my parents' advice regarding all areas of my life, I decide matters for myself. My parents, therefore, no longer have control over my life. This is not accidental, but rather deliberate. My parents have raised me, since I was young, with the goal that I would become a responsible, independent young man capable of successfully managing all aspects of my life. I have embraced their goal for me in this regard and have increasingly exercised my independence, including in the areas of education, my religious beliefs, employment, finances, lifestyle, and participation in civil society.
5. For example, I have worked for multiple employers. In my current employment, I have been promoted to be entrusted with the responsibility of closing the facility. I typically work several days even while attending school.
6. As for my finances, I buy my own clothes and other personal necessities. I manage my own money and online banking, and I have already begun investing from my own income stream. I also choose to support various causes by making charitable donations.

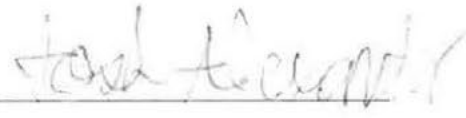
7. I also have complete independence over my health and lifestyle choices. I decide when to go to bed and get up in the morning and schedule my days to include various routine responsibilities such as cooking, grooming, and exercising. I make my own decisions regarding my body including my choice to abstain from premarital sex, drugs, and alcohol.
8. Over the course of the last couple years, I have decided to be very active in social, religious and political causes I care deeply about. I have taken the lead on initiatives that are important to me. I have recently been repeatedly interviewed by the media. I am also a member of multiple political parties and have volunteered my time for municipal, provincial, and federal elections. Although I almost always have my parents' blessing and gratefully accept any guidance they provide me, I have made all these decisions for myself. My parents have not attempted to direct me in these activities; I have directed myself.
9. Most importantly, I make almost all decisions regarding my education. For some time now, I have decided the format of my education and have chosen what classes to enroll in. I manage my workload and do not receive help from my parents in this respect. I have done this not against my parents wishes, but in accordance with their expectation I make educational decisions for myself.
10. This extends to my recent actions in advocating for a change to the apparent policy at St. Joseph's that biologically male students are permitted to enter the female washrooms. In speaking out about this issue, I did not seek my parents' permission, nor did they require me to. This extends to both my online statements and the expressions of my religious beliefs and views regarding sexuality and gender while at school.
11. Lastly, I have exercised my autonomy and independence to retain and instruct legal counsel regarding the ongoing dispute between myself and Renfrew County Catholic District School Board.

12. I swear this affidavit *bona fide*, for no improper purpose and in support of my declaration to the Renfrew County Catholic District School Board that I have withdrawn from parental control.

SWORN BEFORE ME at *the City of*)
Pembroke, in the County of Renfrew,)
Province of Ontario, this 23rd day of January 2023.)



Justice Malone, a Justice of the Peace,
City of Pembroke, for the Government of Ontario,
Ministry of the Attorney General.



JOSH ALEXANDER

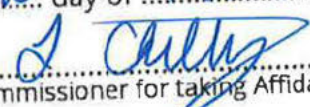
IN THE MATTER OF Josh Alexander v Renfrew County Catholic District School Board

Affidavit of Mathew Alexander

January 24, 2023

James S.M. Kitchen
Barrister & Solicitor
203-304 Main St S, Suite 224
Airdrie, AB T4B 3C3
Email: james@jsmklaw.ca
Phone: 986-213-6321

Counsel for Josh Alexander

This is Exhibit "L" referred to in the affidavit of Josh Alexander sworn before me at Ottawa this 16 day of March, 2023.

A Commissioner for taking Affidavits for Ontario

AFFIDAVIT OF MATHEW ALEXANDER

SWORN ON JANUARY 24, 2023

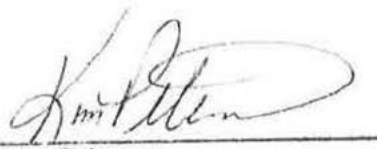
I, Mathew Alexander, of [REDACTED], in the Province of Ontario, have personal knowledge of the following or I am informed and do verily believe that:


1. I am the father of Josh Alexander, a 16-year-old student at St. Joseph's High School ("St. Joseph's) in Renfrew Ontario. References to "we" are references to my wife and I, the mother and father of Josh.

2. My wife and I have raised our son Josh from his youngest years to develop increasingly greater independence. At this stage in his life, Josh is no longer a boy in need of his parents' approval and assistance in every matter of life. He is a very articulate, mature, and responsible young man. He was raised to be a man and to stand on his own two feet and act with independence.
3. Josh has been employed by a variety of different employers involving a number of different roles with increasing responsibilities. He demonstrates capabilities beyond his years in many areas of life. This is recognized by his employers who trust him to take on significant responsibilities, usually reserved for people of greater age.
4. Josh has his own stream of income over which he has complete ownership. He provides for many of his own needs out of this personal income stream, makes investment decisions, and chooses to make charitable donations from that stream as well. All of this is done of his own volition and control.
5. Josh travels far and wide fulfilling speaking engagements to which he is invited as a singularly independent human being. He fulfils these duties and responsibilities without the direct oversight of his parents.
6. We love our son deeply and maintain a good relationship with him. We still enjoy providing him with advice when he seeks it from us, as he often does. However, we intentionally encourage him to make almost all decisions regarding his life for himself, without our control. We also encourage him to take responsibility for his decisions.
7. We are, therefore, pleased to see Josh take responsibility for his decisions regarding his efforts to effect changes in the policies at his high school by appealing his suspensions.
8. As his parents, we have not been significantly involved in the recent events at St. Joseph's. Josh has been the one to suffer the poor treatment from the staff at St. Joseph's, not us. He and he alone should be the one to handle the conflict between himself and St. Joseph's, as he continues to develop into the fine man that he is. It is a time for a man to stand on his own two feet, to rise or fall to the trials before him. This is what Josh has been doing and is what is expected of him by his mother and I.

- 9. Josh has hired a lawyer to assist him in meeting the above-mentioned challenge. This would seem to be a prudent decision made by a wise young man. We as his parents had no involvement in this decision. As his parents, we support this decision, not that he needs that support, but we note it as evidence of the maturation of a young man facing challenges far beyond the pale of the average teenager.
- 10. I swear this affidavit *bona fide*, for no improper purpose and in support of Josh's declaration to the Renfrew County Catholic District School Board that he has withdrawn from parental control.

SWORN BEFORE ME at _____,)
 Ontario, this 24 day of January 2023.)


 _____)
Kim Peterson)
 Deputy Treasurer)
 and Commissioner of Oaths)
 Township of Whitewater Region)


 _____)
MATHEW ALEXANDER



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DROIT DU TRAVAIL ET DE L'EMPLOI

JENNIFER BIRRELL

✉ jbirrell@ehlaw.ca ☎ 613 940-2740

PRIVATE AND CONFIDENTIAL

VIA EMAIL

james@ismklaw.ca

January 26, 2023

James S.M. Kitchen
Barrister & Solicitor
203-304 Main St S, Suite 224
Airdrie, AB T4B 3C3
Phone: 986-213-6321

Dear J. Kitchen:

Re: Josh Alexander

We write further to your letter of January 23, 2023, and the related affidavits that you provided in support of your position regarding Josh's alleged withdrawal from parental appeal.

Withdrawal from Parental Control

We have had the opportunity to review the documents provided to the Renfrew County Catholic School Board (the "Board") in support of your position regarding Josh's withdrawal from parental control. It is our view that the affidavits provided do not meet the requirements established by law to demonstrate that Josh has effectively withdrawn from parental control. While we understand that Josh has retained you as legal counsel and has asserted a withdrawal of parental control, this is not sufficient to satisfy the legal test. Further, we note that contrary to the statements provided, Josh's parents remained involved in discussions with the school relating to his education as recently as December 2022.

In light of the above, the Board's position remains that there is no valid appeal pending with respect to the suspension issued on November 23, 2022 (and confirmed on December 20, 2022) or the suspension dated January 9, 2023.

As we have previously communicated, a pupil may only appeal a principal's decision to suspend a student under section 306 of the *Education Act* where the student is at least 18 years old or "is 16 or 17 years old and has withdrawn from parental control". Otherwise, the right to appeal a suspension issued under the *Education Act* belongs exclusively to the pupil's parent or guardian. To date, Josh's parents have not filed any notice of intention to appeal either suspension and the timeline for doing so has now expired.

Accordingly, in the absence of a demonstrated withdrawal from parental control, your letters to myself and the Board dated January 5, 2023, January 20, 2023, and January 23, 2023, which were issued on behalf of Josh, do not constitute valid suspension appeals. In the event that you can provide the information requested by the Principal to demonstrate withdrawal from the parental control at the time

This is Exhibit "^M....." referred to in the affidavit of Josh Alexander sworn before me at Ottawa this 16 day of March, 2023
[Signature]
A Commissioner for taking Affidavits for Ontario



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of filing the appeals, then the Board will assess the remaining procedural questions surrounding the suspension appeals, including questions relating to the deferral of timelines. To that end and in the absence of any proper appeal before the Board, we agree with you to the extent that the Board will not be holding a suspension appeal hearing within fifteen days of receiving your correspondence.

Exclusion Notice

As you are aware, on January 8, 2023, Derek Lennox, the Principal of St. Joseph's Catholic High School (the "School" or "St. Joseph's") issued Josh a notice of exclusion under section 265(1)(m) of the *Education Act* and Regulation 474/00. While the exclusion was subject to appeal to the Board, pending any appeal or a withdrawal of the exclusion notice, Josh was not permitted to access School premises. As you are aware, pursuant to section 305 of the *Education Act*, it is an offence for an unauthorized person to enter or remain on School premises.

As you know, the exclusion notice was issued only after Josh continued to challenge the expectations set for Josh on his return and only after you issued the following threat: "Absent some sort of arrangement...there will likely be an unfortunate and unnecessary conflict tomorrow, as Mr. Alexander's position as communicated in my letter to you of January 6 also remains unchanged".

In your January 23, 2023 letter, you have indicated that it is Josh's expectation that he will not be compelled to "*referring to students with pronouns or names that are not consistent with students' biological sex.*" Further, your letter states that Josh expects to be allowed to freely profess that "*people are one of either two genders and cannot change from one gender to the other, and boys must not be permitted to enter girls' private spaces as a matter of morality, modesty, and safety.*" Finally, your letter specifies that when at School, Josh will continue to express opposition to "*St. Joseph's policy of permitting biological males to enter the girls' washrooms.*"

As stated in our previous correspondence, 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, *inter alia*, 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."

Upon review of your recent correspondence, the Principal has determined that Josh's presence in the School continues to meet this standard and this determination is supported by the Superintendent of Educational Services. As such, please be advised that the temporary exclusion notice **will remain in effect until the end of the 2022-2023 school year** unless we can reach agreement on terms for his earlier return. This decision to keep the exclusion notice in place until the end of the school year (unless an agreement is reached earlier) is subject to an appeal.

As you are aware, at his meeting with Josh and his parents on December 20, 2022, the Principal set out expectations on Josh's return to school. While we understand that Josh continues to disagree with these expectations, these expectations were provided to facilitate Josh's return and ensure the safety and security of all students.



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The Principal will be communicating directly with Josh's parents regarding the resources available in order to support Josh in the recovery of his credits from semester one.

Yours truly,
EMOND HARNDEN LLP
Per:

Jennifer Birrell
JEB/be

Patrick Twagirayezu

cc. Matt and Nicole Alexander [REDACTED]
Renfrew County Catholic District School Board


**JAMES S.M. KITCHEN
BARRISTER & SOLICITOR**

203-304 Main St S, Suite 224
Airdrie AB T4B 3C3
Phone: 986-213-6321
Email: james@jismklaw.ca

February 6, 2023

VIA EMAIL

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

This is Exhibit "...N..." referred to in the
affidavit of Josh Alexander
sworn before me at Ottawa
this 16 day of March 2023

A Commissioner for taking Affidavits for Ontario

Dear Ms. Birrell,

RE: Notice of Intention to Appeal Exclusion – Josh Alexander

I write to provide notice of Mr. Alexander's appeal of your client's decision to extend the January 8 Exclusion Notice "until the end of the 2022-2023 school year" as communicated in your letter of January 26, 2023.

Mr. Alexander maintains he has withdrawn from parental control and therefore has standing to bring this appeal.

The unreasonable refusal on the part of the School Board to accept Mr. Alexander has withdrawn from parental control and therefore has standing to appeal the suspensions and exclusions he has suffered since November 2022 necessitates court action. You will receive materials in due course.

Regards,



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

cc Mary-Lise Rowat, Superintendent of Educational Services (Mary-Lise.Rowat@rccdsb.ca)



JENNIFER BIRRELL

✉ jbirrell@ehlaw.ca ☎ 613 940-2740

PRIVATE AND CONFIDENTIAL

VIA EMAIL

james@jismklaw.ca

February 15, 2023

James S.M. Kitchen
Barrister & Solicitor
203-304 Main St S, Suite 224
Airdrie, AB T4B 3C3
Phone: 986-213-6321

Dear J. Kitchen:

Re: Josh Alexander

On behalf of the Renfrew County Catholic District School Board, I acknowledge receipt of your letter dated February 6, 2022, a copy of which is attached. As per our usual practice, I am copying Josh's parents on this response.

You have stated that "Mr. Alexander maintains he has withdrawn from parental control and therefore has standing to bring this appeal". Based on our previous communications, we have received insufficient evidence to demonstrate that Joshua has in fact withdrawn from parental control. If you or Josh's parents wish to provide additional information/documentation which support a withdrawal from parental control, please do so without delay.

In the absence of a proper appeal in accordance with Board policies and the *Education Act*, our client will not be scheduling a hearing of the appeal.

As per our letter of January 26, 2023, the exclusion notice remains in place for the balance of the current school year, unless the Board advises otherwise. We understand that there have been a number of developments since our January 26, 2023 letter which would need to be addressed prior to the return to school.

We again wish to remind Joshua and his parents of the educational resources made available to Joshua, as was set out more fully in a letter of January 27, 2023. We note that in recent media interviews, Joshua has suggested that no educational supports have been provided. Despite the many attempts to get Joshua to utilize the available resources since November 2022, we continue to be disappointed by the fact that no response has been received to such communications or follow-up communications. We encourage Joshua and his parents to communicate directly with Safe School coordinator without further delay to access these resources.

This is Exhibit "...O..." referred to in the
affidavit of Josh Alexander
sworn before me at Ottawa
this 16 day of March, 2023
J. Chutty
A Commissioner for taking Affidavits for Ontario



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Finally, we note that on February 6, 2023, numerous attempts were made to secure Joshua's voluntary cooperation with the directives of administration and Joshua refused, indicating that he would like to be arrested. Media reports suggest that Joshua's attendance on school property February 6, 2023, in contravention of the exclusion order, was premeditated understanding that Josh would likely come into contact with police, and potentially get arrested in order to remove him from school grounds. We trust that going forward, Josh will respect the exclusion order and any concerns can be addressed through proper legal avenues.

Yours truly,
EMOND HARNDEN LLP
Per:

Jennifer Birrell
JEB/be

Patrick Twagirayezu

Encl: Letter dated February 6, 2023 **RE: Notice of Intention to Appeal Exclusion – Josh Alexander**

cc. Matt and Nicole Alexander [REDACTED]
Renfrew County Catholic District School Board

JOSH ALEXANDER
Applicant and Moving Party

Court File No.

- and -

**RENFREW COUNTY CATHOLIC DISTRICT SCHOOL
BOARD**
Respondent

ONTARIO
SUPERIOR COURT OF JUSTICE

PROCEEDING COMMENCED AT PEMBROKE

APPLICATION/MOTION

James S.M. Kitchen
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