



PRIVATE AND CONFIDENTIAL

VIA EMAIL

james@ismklaw.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, [REDACTED] [REDACTED] 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.



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You have indicated that Josh has withdrawn from parental control "for the purpose of the appeal of the suspensions".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



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 [REDACTED].

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



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. [REDACTED]
Renfrew County Catholic District School Board