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PRIVATE AND CONFIDENTIAL

VIA EMAIL

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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that the affidavits provided do not meet the requirements established by law to demonstrate that Josh has effectively withdrawn from parental control.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under section 306 of the *Education Act* where the student is at least 18 years old or "is 16 or 17 years old and has withdrawn from parental control".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

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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. [REDACTED]
Renfrew County Catholic District School Board