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June 4, 2025

[REDACTED]
Human Rights Office (HRO)
Hamilton-Wentworth District School Board
[REDACTED]
[REDACTED]

Hatim Kheir

Direct Line: [REDACTED]
Email: [REDACTED]

VIA EMAIL: [REDACTED]

Dear [REDACTED]

RE: Ancaster Secondary School Council Suspension dated May 22, 2025

We are counsel for Catherine Kronas who has received the Board's correspondence dated May 22, 2025. We are writing to warn you that the Board's decision (the "**Decision**") to suspend Ms. Kronas from the Ancaster Secondary School Council (the "**Council**") communicated in the May 22 Letter is unconstitutional and contrary to administrative law principles of procedural fairness.

The Board's Decision Violates Ms. Kronas' Right to Freedom of Expression

The Decision infringes Ms. Kronas' right to freedom of expression guaranteed by s. 2(b) the *Canadian Charter of Rights and Freedoms*. The Board is a government actor for the purposes of the *Charter* and thus bound by its limits.¹

The Board's letter does not specify what harm Ms. Kronas is alleged to have caused or how. However, given that she attended the April 9, 2025, school council meeting virtually and engaged in no other conduct, it is reasonable to infer that the Board's reaction stems from her comments during the meeting. These comments constitute protected expression under the *Charter*.²

As Ms. Kronas spoke in turn and was entitled to participate in the council meeting, it appears the Board's decision to suspend her is based on disapproval of the content of her expression. This suspension is a clear attempt to restrict her speech based on its

¹ *York Region District School Board v. Elementary Teachers' Federation of Ontario*, [2024 SCC 22](#) at paras. [79-81](#).

² *Montréal (City) v. 2952-1366 Québec Inc.*, [2005 SCC 62](#) at para. [56](#).

content. Therefore, the purpose of the Decision is to limit Ms. Kronas' freedom of expression, contrary to s. 2(b) of the *Charter*.³ In the absence of any articulated harm, the infringement is unjustified and unconstitutional.

The Decision Violates Ms. Kronas' Right to Procedural Fairness

A fundamental principle of procedural fairness governing administrative decisions is *audi alteram partem* – "decisions of importance cannot be made unless affected parties have had the opportunity to respond to material evidence offered against them."⁴

In rendering its Decision, not only has the Board not provided Ms. Kronas an opportunity to respond, but it has failed to disclose any information which would allow Ms. Kronas to understand the allegation against her. The only information provided by the Board's letter is that Ms. Kronas "allegedly engaged in conduct that has caused harm and is not in compliance with the Hamilton-Wentworth District School Board – HWDSB policy."

The following information, which is necessary for Ms. Kronas to understand the allegation against her, is missing:

- Who made the complaint?
- Who experienced the harm allegedly caused by Ms. Kronas?
- What is the nature of the harm allegedly experienced?
- What did Ms. Kronas say or do that is alleged to have caused the harm?
- How did Ms. Kronas' comment cause the alleged harm?
- Which provisions of the HWDSB Code of Conduct or Provincial Code of Conduct are alleged to have been breached by Ms. Kronas?

The letter then merely states that the "Board is currently reviewing these allegations." There is no indication if or when Ms. Kronas would be able to respond to the allegations. The Board concludes the letter by taking the extraordinary and drastic step of pre-emptively prohibiting Ms. Kronas from attending Council meetings.

Ms. Kronas is an elected parent member of the Council pursuant to s. 4 of *School Councils*, O. Reg. 612/00. She has a right to attend and participate in Council matters. The Board has deprived Ms. Kronas of that right without any explanation of the allegations against her or an opportunity to respond.

The Board is required by law to balance Ms. Kronas' right to freedom of expression against the statutory objectives contained in the *Education Act*, RSO 1990, c. E.2.⁵ It has not done so. Accordingly, the Board's Decision is unlawful and may be subject to review by the court.

³ *Irwin Toy Ltd. v. Quebec (Attorney General)*, [1989 CanLII 87 \(SCC\)](#), [\[1989\] 1 SCR 927](#) at p. 973.

⁴ *Sexsmith v. Canada (Attorney General)*, [2021 FCA 111](#) at para. 25.

⁵ *Commission scolaire francophone des Territoires du Nord-Ouest v. Northwest Territories (Education, Culture and Employment)*, [2023 SCC 31](#) at para. 66.

We demand that the Board immediately reinstate Ms. Kronas to the Council and permit her to attend the upcoming meeting on June 4, 2025. We look forward to your response.

Yours sincerely,

CHARTER ADVOCATES CANADA

Per:

A handwritten signature in black ink, appearing to read "Hatim Kheir", written in a cursive style.

Hatim Kheir
Staff Lawyer