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May 4, 2023

Via Electronic Mail: sam@mafamilly.org

Samuel J. Whiting, Esquire
Massachusetts Family Institute
401 Edgewater Place, Suite 580
Wakefield, MA 01880

Re: Liam Morrison

Dear Attorney Whiting:

Please be advised that this firm and the undersigned represent the Middleborough Public Schools (“MPS”). Your letter to Superintendent Carolyn J. Lyons, has been sent to us for response. All future correspondence and communications should be directed to me at the above address.

While your letter contains a number of legal conclusions and interpretation of cases with which we strongly disagree, no purpose would be served by debating those cases or legal conclusions at this time. Suffice it to say that the United States Supreme Court made it clear that *Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 504, 508 (1969) did not involve “evidence whatever of petitioners’ interference, actual or nascent, with the schools’ work or of the collision with the rights of other students to be secure and to be let alone. Accordingly, [that case did] not concern speech or action that intrudes upon the work of the schools or the rights of other students.”

At the present time, Massachusetts law provides protection against discrimination, harassment and bullying on the basis of sexual orientation and gender identity. See M.G.L. c. 71, § 37O; c. 76, § 51; 603 C.M.R. 26.00; Massachusetts Department of Elementary and Secondary Education (“DESE”), Guidance for Massachusetts Public Schools Creating a Safe and Supportive School Environment, <https://www.doe.mass.edu/sfs/lgbtq/genderidentify.html#5>. Those protections prohibit communications, whether oral, written, electronic or through the wearing of apparel, that may reasonably be considered intimidating, hostile, offensive or unwelcome based on race, color, religion, national origin, sex, sexual orientation, gender identity or any other status protected by law and/or may otherwise be reasonably likely to lead to a disruption of its operations. *Id.* It is in this legal context, that MPS has, and will continue to, prohibit the wearing of a t-shirt by Liam

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Morrison or anyone else which is likely to be considered discriminatory, harassing and/or bullying to others including those who are gender nonconforming by suggesting that their sexual orientation, gender identity or expression does not exist or is invalid.

Very truly yours,

/s/ Kay H. Hodge
Kay H. Hodge

cc: Carolyn J. Lyons, Superintendent
(Via electronic mail)