



Kurt M. Graham  
T 616.608.1144  
F 616.608.1139  
Email: kgraham@clarkhill.com

February 26, 2015

Sherry L. McMillan  
Director Legal Affairs  
Oakland Schools  
2111 Pontiac Lake Road  
Waterford, MI 48328

**Re: Parent/Guardian Right to Opt Out A Student From State Common Core Assessments and Curriculum**

Dear Ms. McMillan:

Oakland Schools has asked us to provide it with resources to allow the district to respond to parent/guardian requests to opt out a student from the State Common Core Assessments and Curriculum. While this is a legally untested area in Michigan, it is our legal opinion that the Michigan Revised School Code does not permit such opt out requests. The Michigan Revised School Code only expressly allows students to opt out of instruction in the following areas: classes in reproductive health, sex education, family planning, human sexuality, and the emotional, physical, psychological, hygienic, economic and social aspects of family life. MCL 380.1506-1507.

Opt out requests relying upon the Family Educational Privacy Rights Act and Protection of Pupil Rights Amendment are also misplaced. Both of those federal laws protect disclosure of student information. They do not provide the right for a student to refrain from taking a test.

Nevertheless, we have seen numerous opt out requests submitted by parents to Michigan public school districts over the past year, and they continue to increase. Most of the requests are being submitted to districts on a template form drafted by the Thomas More Law Center. Given the lack of any standardized testing opt out right under State or Federal law, we have provided you with FAQ document and template response letter your district can utilize to effectively respond to a parent/guardian's request to opt out.

As you will see, we tried our best to "stand the line" with declining the parent/guardian's opt out request, while doing so in a respectful manner and explaining in as much detail as possible to the parent/guardian why the district cannot allow for an opt out. Please keep in mind that the template denial letter we have attached is in response to the standard opt out letter from the Thomas More Law Center so the template letter may not specifically address all of the items identified in a particular opt out request received in a different formant. Since a particular opt out request may differ and require a modification of the response letter we have attached, we

Sherry L. McMillan  
Oakland Schools  
February 26, 2015  
Page 2

encourage you to contact our office before submitting a letter denying a parent/guardian's opt out request.

Please review the attached documentation. If you have any questions or concerns please let us know. Thank you.

Very truly yours,

CLARK HILL PLC

Kurt M. Graham

Enclosures