To: [INSERT NAME OF PRINCIPAL]
 [INSERT NAME OF SCHOOL] (the “**School**”)

Date: [INSERT DATE]

Re: Social, Personal and Health Education (“**SPHE**”) and Relationship and Sexuality Education (“**RSE**”)

Dear Principal / Board of Management,

**Opt-Out Instruction**

In accordance with Articles 41 and 42 of the Constitution of Ireland and Section 30.2 (e) of the Education Act 1998, I hereby instruct the School that [INSERT NAME OF CHILD] shall be opting out of the SPHE and RSE School programme.

Please advise what alternative supervision arrangements have been made for students who shall not be participating in SPHE/RSE, noting that any attempt to suggest that a parent would have to extract their child from the School during the relevant programme, would give rise to an appearance of coercion on the part of the School, such that a parent would be under duress to allow their child to participate in curriculum that is contrary to their conscience and would also be in contravention of Circulars M4/95 and 0013/2018.

With respect to the requirement upon schools to provide for alternative arrangements for students who shall not be participating in SPHE/RSE, I direct you to the following Circulars issued by the Department of Education and Skills:

**Requirement to Provide Alternative Arrangements**

M4/95: Relationship and Sexuality Education

Section 6 (Rights of Parents) provides as follows: - *“In deciding to include a Relationships and Sexuality Education programme as part of Social, Personal and Health Education in school curricula, the right and duty of parents to provide for the religious, moral, intellectual, physical and social education of their children is acknowledged. While the home is the natural environment in which Relationships and Sexuality Education takes place, most parents look to schools for support in fulfilling their obligations to their children in this area of development. Consequently, the school is seen as playing a supportive and complementary role to the home in this task. It is envisaged that this will be achieved by involving parents, with management and teachers, and, where appropriate, with pupils, in a collaborative exercise towards school policy development. This policy will* *make provision for the rights of parents who hold conscientious or moral objections to the inclusion of such programmes on the curriculum and will state how the school intends to address these situations.”*

* With regard to Circular M4/95, there is an obligation upon schools to *“make provision for the rights of parents who hold conscientious or moral objections to the inclusion of such programmes on the curriculum and will state how the school intends to address these situations.”*

0013/2018: Religious instruction and worship in certain second level schools in the context of
Article 44.2.4 of the Constitution of Ireland and Section 30 of the Education Act 1998

Although this Circular deals specifically with the constitutional right not to attend religious instruction, I conclude that the directions issued as part of this Circular can be extended to all moral, intellectual, physical and social education, in addition to religious education, in light of the protections guaranteed under Article 42 of the Constitution of Ireland (which has been set out below for the sake of convenience): -

“The State *acknowledges that the primary and natural educator of the child is the Family and guarantees to respect the inalienable right and duty of parents to provide, according to their means, for the religious and moral, intellectual, physical and social education of their children”;* and

*“The State shall provide for free primary education and shall endeavour to supplement and give reasonable aid to private and corporate educational initiative, and, when the public good requires it, provide other educational facilities or institutions with due regard, however, for the rights of parents, especially in the matter of religious and moral formation.”*

In light of same, I direct you to the following extracts from under Circular 0013/2018:

*“3.2 Changing Practices*

*The key change is that those who do not want instruction in line with the requirements
of any particular religion should be timetabled for alternative tuition throughout the
school year rather than supervised study or other activities.*

*4. Requirement to Consult Parents/pupils**In future instead of waiting for a parent to request a withdrawal and then having to make alternative arrangements for the pupil for the class periods concerned a school must establish the wishes of parents in relation to opting out of religious worship or instruction and where the pupil is over 18 establish the pupil’s wishes.*

*Ascertaining parental/pupil choice in relation to religious instruction should be integrated with the school’s processes for establishing subject choices generally.*

*In future the school must offer an alternative subject(s) for those who do not want religious instruction. Parents must be made aware that such alternative tuition is available and be asked to choose between religious instruction and the alternative subject(s) offered by the school. Once an opt-out has been expressed it should endure in subsequent years unless otherwise advised by the parents.*

*While in respect of those who want instruction in line with the requirements of a particular religion the school may appropriately engage with the parents in relation to their religious beliefs, there is no basis for a school to intrude in that regard on the privacy of those who are opting for the alternative subject(s). The only information required is that the parent wants to opt for the alternative subject(s).*

*6. Arrangements for Religious Worship**Best practice in relation to making appropriate arrangements for withdrawal from religious worship or events is to provide parents with information about religious worship in the school; its frequency, timing, duration and the nature of the services or events. Ideally this should be done at the start of every school year. Parents should be given the opportunity to advise the school of whether or not they want their child to participate in or be present during religious worship.*

*It should be clarified with parents who do not want their children to attend if they want the child to be excluded in all circumstances or whether they might view particular situations differently (e.g. where the religious activity is related to bereavement within the school community or where a religious service or event in the school is a multi-faith gathering or service). Decisions made by parents should endure in subsequent years unless a parent states otherwise.”*

The key takeaways from Circular 0013/2018 are as follows:

* that those who did not want instruction in line with the requirements of any particular religion be timetabled for alternative tuition throughout the school year rather than supervised study or other activities; and
* that a school must establish in advance the wishes of parents in relation to opting out of religious worship or instruction; and
* that ascertaining parental choice in relation to religious instruction should be integrated with the school’s processes for establishing subject choices generally; and
* that the school must offer an alternative subject(s) for those who do not want religious instruction. Parents must be made aware that such alternative tuition is available and be asked to choose between religious instruction and the alternative subject(s) offered by the school; and
* that once an opt-out has been expressed it should endure in subsequent years unless otherwise advised by the parent; and
* that there is no basis for a school to intrude in regards to the reason for the opt out on the privacy of those who are opting for the alternative subject(s). The only information required is that the parent wants to opt for the alternative subject(s).

Given the constitutional protections guaranteed to the Family in general and to Education specifically, there can be little doubt that a court would conclude that the directions issued under Circular 0013/2018 should be extended to all moral, intellectual, physical and social education – which would undoubtedly include SPHE/RSE.

**Relationship and Sexuality Education to be confined to SPHE**

I am aware that as part of the NCCA review of Relationship and Sexuality Education, that consideration is being given to cross curricular learning of SPHE/RSE. For the avoidance of doubt, I would consider any such move to be an objective interference with my right to opt my child out of SPHE/RSE.

In this regard, not only do I consider that any such move would leave the School open to a legal claim for damages/injunction, but there is also persuasive authority from the UK that intertwining a controversial topic such as transgenderism into the School culture, environment or other academic subjects, could leave the School/Department of Education and Skills open to Judicial Review.

The persuasive authority to which I refer is the recent case in the UK taken by Nigel and Sally Rowe against the Department of Education concerning the Cornwall Schools Transgender Guidance. In this case the Rowes were granted permission for Judicial Review over the Department for Education’s refusal to intervene in their case and its promotion of the transgender guidelines in primary schools. In this case Lord Justice Lane ruled that the Department of Education’s decisions were judicially reviewable on the grounds that transgender issues in schools are a matter of education and therefore the responsibility of the state.

In September 2022, the Department of Education settled their case with the Rowes, by agreeing to pay £22,000 in legal costs and providing a commitment that the Government would reform transgender policies in primary schools.

There can be little denying that transgenderism is a controversial topic and in light of same and the rights of parents to opt their children out of any aspect of the school curricula they choose, any decision to teach or encourage RSE outside of SPHE will be met with legal challenge in order to safeguard the rights of my family.

To conclude, please advise a date and time that would be convenient to meet and discuss the options available for alternative supervision.

I await hearing from you by return.

Yours sincerely,

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[INSERT YOUR NAME AND CONTACT DETAILS]