



MASSACHUSETTS LIBERTY LEGAL CENTER

Ms. Julie Fenn
Assistant Coordinator PE, Health and Wellness
Lexington Public Schools
251 Waltham Street
Lexington, MA 02421

January 9, 2026

Via Email and U.S. Mail
jfenn@lexingtonma.org

Re: Sex Education Opt Out Request for [REDACTED]

Dear Ms. Fenn,

I write on behalf of my client, [REDACTED], regarding her request to opt her child, [REDACTED], out of 5th Grade Human Growth and Development/Puberty lessons at Lexington Public Schools (LPS). The purpose of this letter is to ensure that both the letter and the spirit of her request are honored by the District.

As you know, Massachusetts law allows parents to opt their children out of curriculum that primarily involves sex education or human sexuality issues.¹ The law also states that no child shall be penalized by reason of such an exemption. The Commissioner of Education's Advisory Opinion on the opt-out law instructs that schools "should make efforts to accommodate the exempted student in another class, assign an alternative educational project, or provide the student with a directed study period for the duration of the exemption."² In addition, the U.S. Supreme Court's recent decision in *Mahmoud v. Taylor* mandates that schools accommodate the religious beliefs of families by honoring requests to opt children out of content that threatens to undermine their religious upbringing.³

After Mrs. [REDACTED] attempted to opt [REDACTED] out of the sex education/puberty lessons, she received an email from you (attachment A) stating that her son must still complete "related coursework" outside of class, per LPS policy. You said that [REDACTED] must complete "alternative lessons and assignments provided by the LPS district that cover the subject matter on their own, with oversight from and discussion with a parent/guardian" or Mrs. [REDACTED] would need to "identify alternative curriculum and assignments to be completed by the student, with oversight from and discussion with a parent/guardian" in consultation with you. If the second option was chosen, [REDACTED] would have to "include descriptions of [his] experiences relating to these

¹ M.G.L c. 71, § 32A.

² Robert V. Antonucci, Commissioner of Education, "Advisory Opinion on the Parental Notification Law", April 7, 1997, available at <https://www.doe.mass.edu/lawsregs/advisory/c7132adv.html>.

³ 606 U.S. 522, 569-70 (2025) (holding that school must opt Christian and Muslim children out of LGBTQ storybooks).

developmental issues.” Mrs. [REDACTED] then received a document entitled “5th Grade HGD-Puberty Alternative Opt Out Lessons” (attachment B), which indicates that [REDACTED] would still need to complete assignments covering the same content outside of class that he would have covered in his sex education class. This content includes discussions of puberty, menstruation, sexual intercourse, and gender identity and sexual orientation. Among other things, the alternative assignments expect parents to instruct their children that sex is “assigned” at birth and that the correct terms for “male” and “female” are “person with a penis” and “person with a vulva.”

Given the communications that Mrs. [REDACTED] has received from LPS, it appears that the District is attempting to require students who have opted out of sex education to learn the same content outside of class as they would inside of class. Our concern is that by imposing such a requirement, LPS is attempting an end-run around the sex education opt-out statute. Forcing parents to teach the school’s sex education program at home as an alternative to learning it at school would defeat the purpose of the law and violate its clear intent – to give authority to parents to decide that their children are not yet ready to learn such information, or to allow them to teach it from their own perspective.

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

As the ones who know him best and love him most, it is imperative that [REDACTED]’s parents have the opportunity to introduce him to these concepts on their terms and in their timing.

In addition to the issues raised by the opt-out statute, LPS’s policy would also likely violate the First Amendment’s Free Speech Clause by compelling families to communicate messages to their children with which they may disagree (such as messages that gender is fluid or that sex is “assigned”).⁴ Therefore, such a requirement could not stand. Lexington cannot force unwilling parents to be a mouthpiece for its views on sex, gender, and sexuality.

Finally, Mrs. [REDACTED] and her family are [REDACTED]. As such, they hold biblical religious beliefs, including that parents should use their own God-given wisdom to instruct their children on sensitive topics such as sex education when the timing is most appropriate. In their view, it is parents, not schools, who are the proper source of such information for their own children (e.g. Prov. 22:6). Consequently, they object on religious grounds to [REDACTED] receiving sex education at school and their beliefs must be honored under the First Amendment’s Free Exercise Clause.⁵

We hope that this issue is simply the result of miscommunication and that [REDACTED] will not be required to learn any sex education content, whether in class or at home. Mrs. [REDACTED] would be happy to discuss having [REDACTED] complete alternative assignments that do not involve the topics she wants to opt him out of. Please confirm at your earliest convenience that [REDACTED] will be fully opted out of the Human Growth and Development/Puberty lessons.

⁴ See, e.g., *W. Va. State Bd. of Educ. v. Barnette*, 319 U.S. 624 (1943) (holding that government officials cannot compel speech under the First Amendment).

⁵ *Mahmoud*, 606 U.S. at 569.

Very truly yours,

A handwritten signature in blue ink that reads "Sam Whiting". The signature is written in a cursive style with a long horizontal flourish at the end.

Sam Whiting
Counsel
Massachusetts Liberty Legal Center

cc: Superintendent Julie Hackett
Principal Brian Baker
Laura Spear, Executive Director of Student Services
Lexington School Committee