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WRIGHT BEAMER

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May 13, 2021

Via Electronic Mail
House Oversight Committee
Attn: Rep. Steve Johnson

Dear Rep. Johnson.

I am unable to attend the House Oversight Committee hearing regarding House Bill 4728 this morning. Please accept this written statement regarding the practical need for House Bill 4728 in lieu of testimony. Thank you for your consideration of this important matter.

I am an attorney in Farmington Hills, Michigan and co-chair of the Milford High School Senior Parent Planning Committee. As part of the committee I have been actively working with Class of 2021 students and families this school year. I'd like to offer my experience with graduation planning in support of House Bill 4728.

I placed my first inquiry regarding the process for making graduation ceremony plans in February with our school district administration. I learned that they had already been looking to active health orders in an effort to anticipate what regulations might look like for both indoor and outdoor graduation ceremonies in June, but that there was no clear guidance available. As a practicing attorney, I took it upon myself to read and try to understand the existing orders from the Department of Health and Human Services regarding gatherings so that I might be of assistance in getting plans solidified.

Upon review, I saw that section 2(d)(6) of the existing DHHS order regarding gatherings exempted "education and support services" at prekindergarten through grade 12 schools from seating capacity limits, and that section 5 specifically permitted gatherings at schools for in-person instruction, extracurricular activities, tutoring and academic support, and other school-related services and events. I felt I was looking in the right direction at this point but graduation ceremonies weren't specifically mentioned, so I leaned on principles of legal construction which provide that when a provision is ambiguous, the law looks for evidence of the intent of the parties. In that vein, I noted that DHHS made not one, but two specific allowances for gatherings in schools without seating capacity limits in the existing gatherings order. Based on these carve-outs for schools it seemed logical to me that the intent was to manage school events outside the general guidelines. Put another way: Why would DHHS have created specific school references in the order if their intent was

for general capacity limits to apply? Based upon this analysis, I felt good about my conclusion that a graduation ceremony would be governed by sections 2(d)(6) and 5 of the order.

I brought my analysis back to the school district administration but was told that the district had consulted the Oakland County Health Department and received a different opinion. Oakland County guidance, which was represented to have trickled down from DHHS, was that graduation ceremonies should be considered “entertainment and recreational” events subject to restrictions under section 3 of the gatherings order. I reviewed Section 3 and found a list of examples of the types of venues covered, which included water parks, gun ranges, sporting venues, and strip clubs. There was no mention of schools here.

This just didn’t make sense to me so I took my inquiry to our local Board of Education President and placed a call to the DHHS COVID information center to see if I could get something more definitive. The DHHS representative I spoke with stated that I was the first person to call with a question about graduation ceremonies and she didn’t know the answer either. She escalated the issue within DHHS and told me I would get a call back. I never did.

At this point, I called the Attorney General’s office and was routed to the head of the Corporate Oversight Division. He saw the open issue with the existing gatherings order and escalated the issue again within DHHS. In a follow up phone call, he indicated that DHHS was coming out with a revised order intended to address issues like graduation plans. That revised order was in fact issued on March 2nd but there was no clarity as to high school graduations. The new order opened the door to college graduation ceremonies in section 5(c) but did not provide mirror language in section 5 (a) for preK through 12 schools.

So, my search for answers continued. The Michigan High School Athletic Association offered an opinion on March 15th and Oakland County said it was continuing to work with DHHS to try to understand which section of the health order applied. The school district at this point had also received two different interpretations from attorneys and was waiting on another from the attorney for the venue they hoped to use for their 2021 graduation ceremony. After 6 weeks of emails and phone calls, all I could confirm was that the school district Superintendent, the President of the School Board, the Oakland County Health Department, the DHHS COVID information center personnel, the Attorney General’s office and at least 4 attorneys couldn’t make heads or tails out of the active health order as it pertained to high school graduation ceremonies.

DHHS has had the issue under review for almost three months now but school districts are still scrambling to make plans with multiple options for both indoor and outdoor ceremonies based upon guesses as to what might come next.

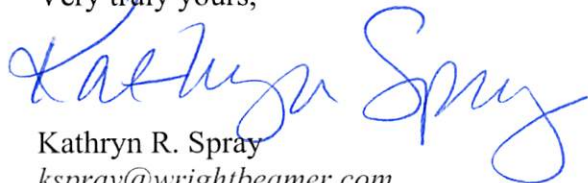
Our district has gone to great lengths to make sure that our senior class is given a respectful, appropriate and safe graduation ceremony. They initially contracted for use of a 64,000 square foot space, audio equipment and all of the necessary supplies to hold an indoor graduation ceremony free from the elements which would allow graduates and every family to be spaced in accordance with CDC and DHHS social distancing guidelines, but those plans fell through as a result of the continued stringent capacity limits on “entertainment and recreational” events.

At this point, a grant of authority is needed to allow implementation of school plans and that's where House Bill 4728 is needed. The legislature saw fit to allow districts to manage instruction throughout this pandemic school year. School districts have been in the trenches figuring out how to safely deliver education all year long. They have expertise and the knowledge specific to their stakeholders. It only makes sense to extend them the same authority in culmination of the year, and as they recognize the hard work and talent development of Michigan's next group of future leaders.

As stated to me by our local administration, "We can do this in a safe and responsible manner, we just need the authority to do so."

Thank you for your time and efforts to support a very deserving senior class as they prepare for this important life moment.

Very truly yours,



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