**CHAPTER 26 OPT OUT DOES NOT APPLY RESPONSE**

Re: [Student Name]

Opt-Out Notice for [Test Date and Subject]

Dear [Administrator]:

On [Date Written Opt-Out Notice Given], I informed you that pursuant to Tex. Education Code ch. 26 and the 14th Amendment of the United States Constitution, I was exercising my parental rights to refuse participation in the state created standardized assessment (STAAR/EOC) referenced above. In response to my notice, I have been informed that it is the position of [Name of School District] ISD that under Tex. Educ. Code §26.010(a), this is not permitted under the “to avoid a test” provision of the statute.

[Name of School District] ISD’s interpretation of the statute is incorrect for several reasons. Foremost, the purpose of my decision is not “to avoid a test.” I have made this decision because I have a deeply held moral and ethical objection to the system of standardized assessment implemented by the Texas Education Agency. To reduce my objection to a mere effort “to avoid a test” is demeaning, condescending, and demonstrates a willful failure on the part of the district to give due consideration to the reasons and purpose of my decision to refuse to permit my child to participate. Parents in [Name of School District] ISD deserve more respect from the administration than this. In addition, the Texas Education Code does not describe the STAAR/EOC exam as a “test.” Rather, the statute refers to it as an assessment instrument. The legislature deliberately chose those words, indicating a clear intention that the STAAR/EOC regime be considered something other than a test. Further, the administration and assessment process shows this is not a “test” as used within Ch. 26. The exam forms no part of a student’s class grade (this was a deliberate legislative change); it is not made available to parents under the test provisions of Ch. 26. Moreover, the legislature recognizes a distinction between a “test” and an “assessment instrument” in Ch. 26 itself. The legislature created specific, but different, provisions relating to the rights of parental access to tests and to assessment instruments. Compare Tex. Educ. Code §26.006 (access to tests) with Tex. Educ. Code §26.005 (access to assessment instruments). If an assessment instrument was the same thing as a test, there would be no need for § 26.005 to even exist as parental access is already guaranteed by §26.006.

The STAAR examination is an instrument to assess overall academic progress, and nothing more. The district simply cannot ignore the distinction between tests and assessment instruments created by the Texas legislature in an effort to coerce me into subjecting my child to standardized testing that I find morally objectionable and damaging to the physical and mental condition of the children subjected to the tests.

Finally, even if your interpretation of Tex. Educ. Code §26.010 were correct (which it is not), I am certain you are well aware that no state law can contravene my constitutional rights as a parent. The fundamental right of parents to provide for the education and upbringing of their children may not be contravened except under extreme circumstances not present in this case. I am acting to protect my child’s physical and emotional health and wellbeing. It is not the prerogative of the State of Texas to substitute its judgment for my judgment in these matters.

I fully expect that [Name of School District] ISD will respect my statutory and constitutional rights in this matter. Please confirm your intention to do so.

Sincerely,

[NAME OF PARENT]