

June 5, 2017

Ms. Diana Rothamer  
President  
Mount Horeb Area School District  
Board of Education  
1304 E. Lincoln Street  
Mount Horeb, WI 53572

Re: Superintendent Steve Salerno's May 22, 2017 Letter to Mount Horeb High School  
Parents and Staff

Dear President Rothamer:

On May 22, 2017, Dr. Steve Salerno, the Superintendent of the Mount Horeb Area School District distributed a letter to all Mount Horeb High School parents and staff regarding a classroom presentation on May 12, 2017 of the documentary entitled *Miss Representation*, which addresses the manner in which women are portrayed in the media and the effect that such portrayals have on young women, in particular, and society, in general. Dr. Salerno's letter also discussed a complaint that was made about the documentary and the actions that he took in response to that complaint.<sup>1</sup>

Dr. Salerno's letter makes factual and legal assertions that mischaracterize the nature of the May 12 events at Mount Horeb High School. As a result, school staff, students, parents, and the public continue to be misinformed about crucial facts and the application of Wisconsin law. Out of a deep concern that such an event in the future may be similarly mishandled, I am compelled to set the record straight.

To begin, the award-winning film at issue, *Miss Representation*, is an educational documentary meant to "reveal a glaring reality we live with every day but fail to see -

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<sup>1</sup> Dr. Salerno also sent two previous letters, one on May 19 and one on May 21. By publicizing the nature of the investigation through the three letters he called into question the character and integrity of the teacher, even before a thorough investigation could take place. This resulted in an unfair and humiliating characterization of what the teacher had done.

how the media's limited and often disparaging portrayals of women and girls makes it difficult for women to feel powerful and achieve leadership positions." For detailed background on it, please visit [www.therepresentationproject.org](http://www.therepresentationproject.org). While the film contains, as Dr. Salerno notes, "flash images of women being subjected to forced humiliation," such images by no means dominate the film. The vast majority of photographic images in the film are "flash images." Most importantly, and not noted in the Superintendent's letter, the images are all common, publicly available photos and footage that Mount Horeb High School students, every other American teenager and adult see outside the classroom on a daily basis.

The images in *Miss Representation* were not captured from pornographic videos, subscription websites, or any other private source. They all come from mainstream television commercials, music videos, and major Hollywood movies. The point of the documentary is to show how pervasive these negative images of women are and to explain the harm they create. Incredibly, Dr. Salerno's letter not once clarifies that significant point.

Most of the film consists of comments by prominent women, including Katie Couric, Condoleezza Rice, Rachel Maddow, Jane Fonda, Rosario Dawson, and Nancy Pelosi and features a number of female and male academics and commentators. In short, the documentary is a compilation of statements by public figures about the denigration of women by the media. It is, without doubt, an overwhelmingly positive, eye-opening and thought provoking film.

Dr. Salerno's statement that prior to showing the film, the class list was not reviewed "to ascertain the degree to which children with a history of traumatic experiences had potential for re-traumatization" by viewing the film is perplexing. First of all, teachers do not have access to such information. But the more important questions are, for example: Should history teachers query each student to determine if a relative was killed in a war before discussing it in class? Should images of the Holocaust or the effects of the atomic bomb on the people in Hiroshima not be shown to high school students because such images might be upsetting? If teachers must henceforth pre-screen each student to learn about traumas that they may have suffered and then tailor lesson plans accordingly, the Mount Horeb High School curriculum will be paralyzed.

Similarly, the assertion that there was no in-depth student debriefing after the film is simply wrong. The film's producers, who specifically market its educational value, have written a supported curriculum for the classroom to be used in conjunction with the film. On May 12, because the regular teacher was absent for a family emergency, a substitute teacher, who was a regular faculty member, presented the first 45 minutes of the film to the class. The substitute did not begin using the supported curriculum

because the film was not over. Upon the regular teacher's return to the classroom and the completion of the film, the supported curriculum was used. (I urge you to watch at least the first 45 minutes of the film so that you may see that there was no need to "debrief" anyone about the contents of that part of the film.)

Perhaps most concerning is Dr. Salerno's plain misunderstanding of Wisconsin law about reporting "child abuse." Wisconsin Statute § 948.11 makes it a crime to expose a child to harmful material, which has a specific definition in the statutes. However, all material that has "serious literary, artistic, political, scientific, or educational value for children, when taken as a whole" is absolutely excluded from the definition of harmful material. See Wis. Stat. § 948.11(1)(b)(3). The fact that Dr. Salerno relied on a limited number of still images from the film, apparently supplied to him by a complainant, to base a referral to Child Protective Services and the Mount Horeb Police without viewing the entire film to determine if it had "serious literary, artistic, political, scientific, or educational value for children, when taken as a whole", demonstrates his misunderstanding of what the definition of "harmful material" is.

While it is true that Dr. Salerno and all other employees are mandatory reporters of "child abuse" and that exposing a child to harmful materials is a form of such abuse, apparently neither Dr. Salerno or anyone advising him was familiar with the fact that under Wis. Stat. § 948.11(4), **no person who is an employee of a public secondary school may be liable for exposing a child to harmful material for acts or omissions while in his or her capacity as an employee.** Because the teacher in question was clearly acting within the scope of her employment, there was simply no mandatory reporting requirement and this matter should never have involved the police or Child Protective Services.<sup>2</sup>

Dr. Salerno's letter states that there had been "complaints received about coarse language routinely [being] used in classes." In fact, there was once a single complaint about a lesson about gender stereotypes that included some negative terms used when people who do not conform are judged. The terms were supplied during discussion by the students themselves. Coarse language was never "routinely used" by the teacher.

Finally, the letter appears to place some blame on the teacher for the uproar that took place following her suspension. I submit that had the administration acted calmly and deliberately, and taken the time to actually view the documentary and judge its contents, that there would have been no uproar, public or private, about this matter.

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<sup>2</sup> Dr. Salerno in his letter said that the police made a referral of a possible violation of Wis. Stat. §§ 948.11 and 948.055 (having a child view or listen to sexually explicit conduct). There is no "sexually explicit conduct" in the documentary. For a definition of "sexually explicit conduct" see Wis. Stat. § 948.01(7)

In sum, Dr. Salerno's May 22 letter perpetuated misinformation when it should have dispelled it and undermined Mount Horeb's educators where it should have promoted their quality and judgment. The staff, students, and parents of Mount Horeb High School deserve accurate information in order to ensure the school's administration does not mishandle an incident like this in the future.

Very truly yours,

PINES BACH LLP

A handwritten signature in black ink, appearing to read "Lester A. Pines", written over the typed name below.

Lester A. Pines

LAP:hkb

cc: Mt. Horeb Area School Board Members  
Superintendent Steve Salerno