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Partners in Education: The Parent/Educator Relationship

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Andrea Slater Gulley is the General Counsel for the Amarillo Independent School District. Prior to working in-house for Amarillo ISD, Mrs. Gulley was a shareholder at the Underwood Law Firm, also in Amarillo, where she began her practice of law in 2004. While at Underwood, Mrs. Gulley's practice included education law, special education law, employment law, election law, and local governmental entity law.

Mrs. Gulley was raised on a farm in rural Nebraska, and graduated from the University of Nebraska – Lincoln, before attending law school at the University of Oklahoma. (Despite attending OU, she is a loyal Cornhusker fan.) While at OU Law, Ms. Gulley worked at the State of Oklahoma's Office of Special Education Due Process, where she recruited, researched for, and trained with Oklahoma hearing and appeal officers. She also served as the managing editor of the *American Indian Law Review*, co-chaired OU Law's Mentor Program during her third year, and participated in the college's study-abroad program at Oxford University in England.

Mrs. Gulley was recognized as a "Texas Rising Star" by *Texas Monthly* each year from 2007 to 2015. While at the Underwood Law Firm, Mrs. Gulley served as the Firm's Employment Law Section Leader and served on the Firm's Practice Management Committee. She is a 2012 graduate of Leadership Texas; served as a Director for the Amarillo Area Bar Association; served as the President of the Amarillo Education Foundation; and served as a United Way Loaned Executive. Currently, Mrs. Gulley serves on the planning committee for the University of Texas CLE – Education Law Section; serves on the Executive Committee for the State Bar of Texas – School Law Section; and serves on the Amarillo Area Women Bar Association Board of Directors. In her free time, Mrs. Gulley volunteers in animal rescue and "fosters" homeless dogs. The Gulleys have fostered over 50 dogs in their home over the past 5 years, and helped find "forever homes" for them.

Mrs. Gulley is a member of the National School Boards Association's Council of School Attorneys, the Texas Association of School Boards' Council of School Attorneys, and the School Law Section of the State Bar of Texas. Mrs. Gulley has been licensed to practice law in the State of Texas since 2004.

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Nothing in this handout or presentation constitutes legal advice. This handout and presentation is offered for educational purposes only.

If you have specific questions or concerns regarding any issue discussed, please seek the advice of legal counsel.

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Partners in Education: The Parent/Educator Relationship

By: Andrea Slater Gulley

I. Introduction:

The older I get, the less I remember about my early elementary years. But there is one elementary memory that will never fade – the day my third-grade teacher sent a note home to my parents. The note was in a sealed envelope, and it terrified me. At that point in my educational career, the most trouble I had been in was when my name was written on the blackboard in first grade, as a warning because I was talking too much. (Perhaps an indication of the profession I would one day choose?) What on earth could my teacher need to tell my parents that warranted a *sealed envelope*? I placed the note in my backpack and took it home... where it sat in my dresser drawer for at least a week. I decided nothing good could be in that envelope, and my parents simply did not need to see it. Unfortunately, my teacher eventually asked what my parents thought of her note. I gave a non-answer (at this point, my career path was solidified), and I decided I had no choice but to give my parents the note that very night. Whatever trouble I was in, I would grin and bear it. I gave the note to my mom, who read it and said, “I guess we need to take you to the eye doctor – your teacher says you’re having a hard time seeing the reading chart.” Whew! All of that worry for nothing! (Except, of course, the inevitable “four eyes” name calling that would surely follow.)

As I reflect on The Teacher Note Horror of 1986, it occurs to me that 32 years later, a teacher today would likely not entrust a third-grade student with a note concerning a medical need. Rather, the teacher would likely contact the parents via text, email, phone call, or perhaps even a smart phone application or computer program. But is electronic communication better? It may be more reliable than sending a note with an 8 year old, but depending on the method used, it may not be the best method – or even a legally sound one.

This paper will explore parent/educator communication and partnerships required and/or expected by both federal and state law, as well as the pros, cons and potential pitfalls with and potential legal implications of informal communication, including smart phone

applications and computer-based programs. One educational program, ClassDojo, reports that one in three schools in the United States uses its product. Furthermore, teachers are commonly sharing cell numbers with parents, and sometimes encourage texting as a means of quick communication. If your district is not having a discussion as to which programs and applications are acceptable for use, or whether texting is a permissible form of parent engagement – that time has arrived.

II. Legal Authority Relating to Parent Involvement & Access to Information

A. Supreme Court Rulings:

Since 1923, the United States Supreme Court has repeatedly confirmed parents' fundamental right to make decisions concerning the care, custody and control of their child. *See, e.g., Troxel v. Granville*, 530 U.S. 57, 65 (2000)("[T]he interest of parents in the care, custody, and control of their children... is perhaps the oldest of the fundamental liberty interests recognized by this Court"); *Santosky v. Kramer*, 455 U.S. 745, 753 (1982)(Acknowledging the "fundamental liberty interest of natural parents in the care, custody, and management of their child"); *Prince v. Massachusetts*, 321 U.S. 158, 166 (1944)("It is cardinal with us that the custody, care and nurture of the child reside first in the parents, whose primary function and freedom include preparation for obligations the state can neither supply nor hinder"); *Pierce v. Society of Sisters*, 268 U.S. 510, 534-535 (1925)("[T]he liberty of parents and guardians" includes the right "to direct the upbringing and education of children under their control"); *Meyer v. Nebraska*, 262 U.S. 390, 399, 401 (1923)(Parents have a right to "establish a home and bring up children" and control their children's education). These fundamental rights are often reflected in state education laws; Texas has many examples throughout its Education Code (discussed in detail below).

B. Texas Education Code:

The Texas Education Code devotes an entire chapter to parental rights and responsibilities. The first section of Chapter 26 directs, "Parents are partners with educators, administrators, and school district boards of trustees in their children's education. Parents shall

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