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April 12, 2018

Via U.S. Postal and Electronic Mail

Dr. Eric Bracy, Superintendent
Sampson County Schools
427 Rowan Road
Clinton, North Carolina 28328
ebracy@sampson.k12.nc.us

Re: Suspension of student who drew stick figures holding a gun and knives

Dear Dr. Bracy:

As a legal organization that has worked diligently to push back against draconian zero tolerance school policies that do more harm than good, The Rutherford Institute¹ is gravely concerned that school officials imposed a two-day suspension on a student at Roseboro-Salemburg Middle School over harmless stick figure drawings he made at school.

According to media reports of the incident, the 13-year-old student made a sketch of various stick figures, including a Teenage Mutant Ninja Turtle, a magician, a medieval warrior, and an ordinary hunter with a rifle, along with a souped-up car and a castle.² None of the stick figures were depicted performing violent acts or even aiming weapons at anyone. In fact, the stick figure with a gun was pointing the weapon toward the edge of the page at nothing. The student happens to be an avid hunter, easily explaining why the stick figure would be holding onto a gun. Despite the fact that the picture harmed no one, threatened to harm no one, and had no discernible impact on school safety, the student was suspended for two days causing him extreme distress.

¹ The Rutherford Institute is a non-profit liberties organization that provides free legal representation to individuals whose civil rights are threatened or infringed.

² Chase Jordan, "Drawing leads to suspension," *The Sampson Independent* (March 24, 2018), <https://www.clintonnc.com/news/28735/drawing-leads-to-suspension>; Gilbert Baez, "Sampson County student suspended for drawing of stick figure holding gun," *WRAL.com* (March 26, 2018), <http://www.wral.com/sampson-county-student-suspended-for-drawing-of-stick-figure-holding-gun-/17444443/>.

This unjustifiably harsh discipline not only infringes upon the student's First Amendment right of expression, but also serves no purpose other than creating an oppressive and authoritarian environment within the school that is not conducive to learning or the healthy development of children.

We urge Sampson County Schools to rescind the student's suspension and thereby renounce using this type of excessively punitive discipline. Such disciplinary tactics are turning our nation's schools into places of oppression rather than positive environments for learning and expression.

Suspending a student for two days for innocent drawings is wholly unjustified. There is nothing indicating the student posed any threat whatsoever to other students or school officials, yet officials made the irrational decision that it was necessary to suspend him and exclude him from school. At no point before the decision was made did the school contact a parent about the drawing and its meaning or seek to determine if there was any other indication of behaviors that might be of concern. Even now, no explanation has been provided as to why a suspension was necessary or justified, other than the suggestion that the punishment was within the discretion of the school. But the fact that school officials have the power to impose severe discipline on students is no basis for doing so capriciously and unnecessarily.

Indeed, nothing in the Sampson County Schools 2017-2018 Student Handbook suggests the severe punishment of an out-of-school suspension is necessary for a student who creates a drawing that does not cause a disturbance in the school. For a first time violation to warrant out-of-school suspension, it must be a Class III Violation.³ This kind of violation includes, but is not limited to, gang activity, fighting, threatening students or staff, possession of a dangerous object, and disorderly conduct.⁴

There is simply no evidence suggesting that a drawing of individually posed stick figures with swords and a gun with no other context could rise to the same level of severity as threats of violence or actual violence against others. At no point would a student understand that drawing figures of the nature described could possibly lead to being suspended from school. And instead of allowing the student an opportunity to explain the drawing, the school only provides a post-suspension procedure⁵ that leaves the student and his parents to challenge the punishment after it has already happened, by which point the damage to the student is already done.

The Student Handbook provides that "[e]ach student has the right to an education,"⁶ but for no reason other than it was within the "discretion" of school officials, a student at your middle school was deprived of that right for two days despite plainly posing a risk to no one. The Handbook also provides that "[o]ne role of the school, in cooperation with parents, guardians,

³ Sampson County Schools 2017-2018 Student Handbook at 30, https://www.sampson.k12.nc.us/cms/lib/NC01911190/Centricity/Domain/74/ADA%20Handbook%20for%20web_rev.pdf.

⁴ Sampson County Schools 2017-2018 Student Handbook at 30.

⁵ Sampson County Schools 2017-2018 Student Handbook at 39.

⁶ Sampson County Schools 2017-2018 Student Handbook at 28.

and the community, is to teach responsible behavior,”⁷ yet a parent was not contacted about the drawing until after the suspension was imposed. Instead of teaching the students responsible behavior, compliance and conformity is being imposed without reason.

While we all have an interest in making sure schools are a safe place for students, this suspension does not make schools safer. Rather, it punishes a child for engaging in childish behavior. A student was suspended, stigmatized, and denied an education because school officials failed to recognize the difference between dangerous and innocent behavior.

This kind of “zero tolerance” approach to student discipline needlessly punishes students without any discernible benefit to school safety or order. To the contrary, this kind of draconian response to student behavior has proven ineffective in discouraging actual criminal, violent behavior in the schools and instead leads to higher rates of repeat offenders and higher dropout rates.⁸

As a national organization, The Rutherford Institute has followed, weighed in on, and litigated thousands of similar cases involving similarly harsh school disciplinary policies that eschew careful reasoning in favor of rash decision-making that results in victimizing students. This minor event involving personal drawings that never impacted other students resulted in one of the harshest penalties a school can give out. When a student can be punished for simple drawings that any normal child could create, then even the best-behaved child is at risk of suffering the humiliation of being banned from school.

Furthermore, the suspension at issue here is contrary to the First Amendment’s protection of freedom of expression. Students do not shed this constitutional right when they enter the schoolhouse gate and they are entitled to engage in expression, which includes drawing, while at school. Only when that expression causes a disruption of the school or violates the right of other students may a student be punished for speech and expression in the school.⁹ The cartoonish stick figure drawings involved here clearly were not disruptive and made no threat, specific or general. Suspending a student for these child-like, innocuous drawings is not only unreasonable, but constitutes an infringement upon the student’s First Amendment rights.

When civil liberties like free speech are removed one by one from our schools, they become more like prisons instead of the centers of learning and creativity that they should be. Thus, students are increasingly confronted with metal detectors, drug-sniffing dogs, desk and locker searches, vehicle searches, and personal searches that range from a pat down to something even more intrusive.¹⁰

⁷ Sampson County Schools 2017-2018 Student Handbook at 28.

⁸ Stephanie Francis Ward, “Schools start to rethink zero tolerance policies,” *ABA Journal* (Aug. 2014), http://www.abajournal.com/magazine/article/schools_start_to_rethink_zero_tolerance_policies?icn=most_read.

⁹ *Tinker v. Des Moines Indep. Sch. Dist.*, 393 U.S. 503 (1969).

¹⁰ Sampson County Schools 2017-2018 Student Handbook at 37-38.

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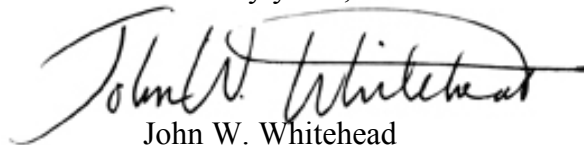
By treating all students as suspects and harshly punishing kids for innocent mistakes, schools set themselves and their students up for failure—not only by focusing on the wrong individuals and allowing true threats to go undetected, but also by treating young people as if they have no rights, thereby laying the groundwork for future generations that are altogether ignorant of their rights as citizens and are unprepared to defend them. “[T]he indiscriminate use of force without regard for its effects is the hallmark of authoritarianism, incompatible with the functioning of a democracy, and certainly incompatible with the transmission of democratic values to children.”¹¹

Moreover, the harsher the penalty now, the more likely a student will in turn be harsh to the people around him, leaving schools and communities to deal with consequences in the future that could have been avoided. If the goal is to make schools safer, then extreme and unreasonable punishment could very well defeat that purpose.

The broader problem underlying this incident will take time to correct, but the harm done to the student at Roseboro-Salemburg Middle School can still be remedied.

We call on those in authority at Sampson County Schools to rescind the suspension that was imposed and prevent this from becoming a permanent stain on his record. We strongly urge you to use this case as an example of how schools can bring back common sense in addressing disciplinary issues and, at the same time, provide a safer and healthier environment for students.

Sincerely yours,

A handwritten signature in black ink that reads "John W. Whitehead". The signature is written in a cursive style with a long horizontal flourish extending to the right.

John W. Whitehead
President

¹¹ Russ Skiba and Reece Peterson, *The Dark Side of Zero Tolerance: Can Punishment Lead to Safe Schools?* at 9, https://curry.virginia.edu/uploads/resourceLibrary/dark_zero_tolerance.pdf.