

## MEMORANDUM

TO: Lincoln School District Board  
FROM: Lincoln School District Attorney  
RE: Recent Suspension of Student

In order to determine if the suspension of Jessie was proper, the school board must first determine what warrants a suspension. The Connecticut Compilation of School Discipline Laws and Regulations states that a school board can suspend a student “whose conduct off school grounds is violative of [a publicized] policy and is seriously disruptive of the educational process.” An action is “seriously disruptive” if it occurs within close proximity of the school; if other students from the school are involved; if the action involves violence, threats of violence, unlawful use of a weapon (as defined in section 29-38), or injuries; or if the action involves the use of alcohol. Before a student can be suspended, he must have the opportunity to explain his actions in an informal hearing.<sup>1</sup>

The Supreme Court has added more criteria to this list. According to *Tinker v. Des Moines*, schools can suspend students whose speech “collides with the rights of other students to be secure and to be let alone.” *Wynar v. Douglas County* concluded that “when faced with an identifiable threat of school violence, schools may take disciplinary action in response to off-campus speech.”<sup>2</sup>

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<sup>1</sup> “Connecticut Compilation of School Discipline Laws and Regulations.” (2018, January 26). Retrieved February 16, 2019, from <https://safesupportivelearning.ed.gov/sites/default/files/discipline-compendium/Connecticut%20School%20Discipline%20Laws%20and%20Regulations.pdf>

<sup>2</sup> “*C.R. v. Eugene School District 4J*.” (2016, September 1). Retrieved February 18, 2019, from <https://cdn.ca9.uscourts.gov/datastore/opinions/2016/09/01/13-35856.pdf>

But no matter which set of criteria Jessie's situation is compared to, his suspension is unwarranted. It can be reasonably inferred that a shooting range would not be in close proximity to a school, and since Jessie's father was present, there was no unlawful use of a weapon. There is also nothing that suggests the involvement of alcohol; the only criteria met is that another student (Jack) was involved.<sup>3</sup> There is no "identifiable threat of school violence," as all the school has for evidence is a video of Jessie at a shooting range and the knowledge that he is a social outcast. At no point does Jessie openly state that he has any intention of taking his guns to the school or acting violently towards fellow students; he simply partakes in a legal activity. Jessie's "speech" is also not threatening. He can shoot, but it is not implied that he has a history of violence.<sup>4</sup> He is quiet, but he is not dangerous; if anything, Jack's behavior should be monitored since he is the one bullying his brother.<sup>5</sup> The school board cannot justly suspend Jessie because he has not done anything wrong. They also did not give him an informal hearing and the chance to explain his actions, which *Goss v. Lopez* ruled is necessary for a suspension to be just.<sup>6</sup>

The ACLU came to a similar conclusion regarding the ability of schools to punish students for their actions out of school in *G.D.M. v. Ramapo Indian Hills*: "The close institutional ties between a school system and a young person do not extend authority to administrators in spheres entirely separate from the academic environment. Unless a student's behavior outside of school directly and substantially disrupts the school, discipline rests with the parents and the

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<sup>3</sup> "Chapter 529 Division of State Police." Retrieved February 16, 2019, from [https://www.cga.ct.gov/2017/pub/chap\\_529.htm](https://www.cga.ct.gov/2017/pub/chap_529.htm)

<sup>4</sup> "*C.R. v. Eugene School District 4J*." (2016, September 1). Retrieved February 18, 2019, from <https://cdn.ca9.uscourts.gov/datastore/opinions/2016/09/01/13-35856.pdf>

<sup>5</sup> "Jumping the Gun — Preventing School Violence." Retrieved February 14, 2019, from <https://www.ctbarfdn.org/ctbar/18-19%20Attachment%20A%20-%20Topic.pdf>

<sup>6</sup> "*Goss v. Lopez*." Retrieved February 16, 2019, from <https://www.law.cornell.edu/supremecourt/text/419/565>

juvenile justice system.”<sup>7</sup> Jessie’s actions did not endanger the school or other students in any way, so the school cannot punish him for them. They also do not pass the three tests set in *C.R. v. Eugene School District*: Jessie was not close enough to the school to permit the school board regulating his actions, it is not reasonable to conclude that Jessie legally shooting at a gun range would affect the climate of the school because Jessie does not have a history of violence, and Jessie did not intentionally direct hateful speech at the school or its students.<sup>8</sup>

The board has also proposed alternative education, which would presumably address Jessie’s social, behavioral, and emotional needs.<sup>9</sup> The Connecticut State Department of Education states that in order to be placed in an alternative education program, “a review of the student’s academic, health, and behavioral records” must take place.<sup>10</sup> There are no signs that Jessie’s academic and health records are questionable, and there is no sustainable evidence that his behavior is as well. Alternative education also works best when students are in favor of the decision,<sup>11</sup> and one can conclude from his reaction to the suspension that Jessie does not think he

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<sup>7</sup> “School Overreached in Punishing Off-Campus Actions, Court Says.” (2012, July 24). Retrieved February 18, 2019, from

<https://www.aclu.org/news/school-overreached-punishing-campus-actions-court-says>

<sup>8</sup> James, Bernard. “School Safety Legal Reform: Top 10 Cases of 2016.” Retrieved February 18, 2019, from

<https://nasro.org/cms/wp-content/uploads/2017/11/School-Safety-Legal-Reform-2016-Top-Ten-Cases-JOSS-Winter-2016.pdf>

<sup>9</sup> “Connecticut Compilation of School Discipline Laws and Regulations.” (2018, January 26). Retrieved February 16, 2019, from

<https://safesupportivelearning.ed.gov/sites/default/files/discipline-compendium/Connecticut%20School%20Discipline%20Laws%20and%20Regulations.pdf>

<sup>10</sup> “Guidelines for Alternative Education.” Retrieved February 17, 2019, from

[https://portal.ct.gov/-/media/SDE/Publications/gaes/Guidelines\\_for\\_Alternative\\_Education\\_Settings.pdf](https://portal.ct.gov/-/media/SDE/Publications/gaes/Guidelines_for_Alternative_Education_Settings.pdf)

<sup>11</sup> Curley, Caitlin. “Alternative Education: A Useful or Broken Program?” (2016, September 28). Retrieved February 17, 2019, from

<http://www.genfkd.org/alternative-education-useful-broken-program>

needs to be removed from the school. He likely would not flourish in an alternative setting because he would not feel he should be there.<sup>12</sup>

The board needs to come to a decision that protects the rights of all individuals: the right of Jessie to legally shoot, the right of the students to feel secure at school, the right of parents to trust the school will protect their children, and the right of the administration to prevent school violence. After carefully examining the results of similar conflicts and comparing them to the information given to me, I have concluded that the best form of action would not be to suspend Jessie, but to reach out to him. It is grossly unfair for the board to characterize Jessie as a potential school shooter simply because he is a social outcast and knows how to shoot. It has been scientifically proven that stereotypes have a negative effect on the people they are imposed on.<sup>13</sup> This does not mean that Jessie will become a school shooter because the board recognized the possibility, but rather that it will likely have a significant negative effect on Jessie's mentality. Instead of isolating him even more, the school should make an effort to create a more welcoming climate. If Jessie agrees, he could meet with a guidance counselor or even a therapist. The school should also make an effort to get Jack's bullying to stop. Jack is well-liked, so if he were to treat Jessie better, other students may follow his lead. If Jessie's behavior does not become any less concerning after a few months, or if more concerning videos begin to circulate, the board could meet again to discuss any further action. But I firmly believe that revoking Jessie's suspension

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<sup>12</sup> "Jumping the Gun — Preventing School Violence." Retrieved February 14, 2019, from <https://www.ctbarfdn.org/ctbar/18-19%20Attachment%20A%20-%20Topic.pdf>

<sup>13</sup> "Exploring the Negative Consequences of Stereotyping." (2003, November 20). Retrieved February 18, 2019, from <https://uanews.arizona.edu/story/exploring-negative-consequences-stereotyping>

and focusing on improving his treatment would both be a much more effective solution and protect everyone's constitutional rights.

## Works Cited

“Chapter 529 Division of State Police.” Retrieved February 16, 2019, from

[https://www.cga.ct.gov/2017/pub/chap\\_529.htm](https://www.cga.ct.gov/2017/pub/chap_529.htm)

“Connecticut Compilation of School Discipline Laws and Regulations.” (2018, January 26).

Retrieved February 18, 2019, from

[https://safesupportivelearning.ed.gov/sites/default/files/discipline-compendum/Connecticut\\_School\\_Discipline\\_Laws\\_and\\_Regulations.pdf](https://safesupportivelearning.ed.gov/sites/default/files/discipline-compendum/Connecticut_School_Discipline_Laws_and_Regulations.pdf)

“*C.R. v. Eugene School District 4J*.” (2016, September 1). Retrieved February 18, 2019, from

<https://cdn.ca9.uscourts.gov/datastore/opinions/2016/09/01/13-35856.pdf>

Curley, Caitlin. “Alternative Education: A Useful or Broken Program?” (2016, September 28).

Retrieved February 17, 2019, from

<http://www.genfkd.org/alternative-education-useful-broken-program>

“Exploring the Negative Consequences of Stereotyping.” (2003, November 20). Retrieved

February 18, 2019, from

<https://uanews.arizona.edu/story/exploring-negative-consequences-stereotyping>

Gambrill, Chris. “A Review of Court Cases Involving Out-Of-School Suspension And

Expulsion.” (2013). Retrieved February 18, 2019, from

[http://acumen.lib.ua.edu/content/u0015/0000001/0001409/u0015\\_0000001\\_0001409.pdf](http://acumen.lib.ua.edu/content/u0015/0000001/0001409/u0015_0000001_0001409.pdf)

“*Goss v. Lopez*.” Retrieved February 16, 2019, from

<https://www.law.cornell.edu/supremecourt/text/419/565>

“Guidelines for Alternative Education.” Retrieved February 17, 2019, from

[https://portal.ct.gov/-/media/SDE/Publications/gaes/Guidelines\\_for\\_Alternative](https://portal.ct.gov/-/media/SDE/Publications/gaes/Guidelines_for_Alternative)

Education\_Settings.pdf

James, Bernard. "School Safety Legal Reform: Top 10 Cases of 2016." Retrieved February 18, 2019, from

<https://nasro.org/cms/wp-content/uploads/2017/11/School-Safety-Legal-Reform-2016-Top-Ten-Cases-JOSS-Winter-2016.pdf>

"Jumping the Gun — Preventing School Violence." Retrieved February 14, 2019, from

<https://www.ctbarfdn.org/ctbar/18-19%20Attachment%20A%20-%20Topic.pdf>

"School Overreached in Punishing Off-Campus Actions, Court Says." (2012, July 24). Retrieved February 18, 2019, from

<https://www.aclu.org/news/school-overreached-punishing-campus-actions-court-says>