



FREELAND MARTZ
ATTORNEYS

M. Reed Martz
Admitted in AL, GA, MS, & TN

September 8, 2023

Jefferson County Board of Education
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Bagley Elementary School
Ammie Dawson, Principal
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RE: J.B., A Minor
Freeland Martz No. 04332

I have been retained by Jarrod Heath Belcher regarding the entirely improper and, quite frankly, asinine treatment of his son, J.B., a six (6) year old first (1st) grade student at Bagley Elementary School.

As reported by school staff, on September 1, 2023, J.B. was playing “cops and robbers” during playtime with another student, his friend. During the course of their play, the children reportedly extended their index fingers and thumbs and said “bang, bang” at each other. Any rational person would conclude that this was entirely normal, perfectly age-appropriate play for two young boys. The activity was mutually engaged - and enjoyed - by the two young children. As reported by school staff, their play did not threaten any other students, did not disrupt any class activities, and did not interfere with school functions in any way.

Nevertheless, J.B.'s "gun fingers" were reported to the school administration, whereupon Donna Page, Assistant Principal at Bagley Elementary School, who apparently lacked the insight and judgment to see the ordinary children's play for what it was, immediately began a disciplinary process against J.B.

Candidly, I thought the story may be a hoax until I reviewed the paperwork generated by the school. The school's only citation is to article 3.22 of the Student and Parent Handbook, 2023-2024. The school's report of the incident is partially reproduced below.

**JEFFERSON COUNTY BOARD OF EDUCATION
DUE PROCESS REFERRAL FOR CLASS III INFRACTIONS**

REFERRAL DATE: 9-1-23 SCHOOL: Bagley Elementary
 STUDENT: [REDACTED] INFRACTION: 3.22 Threat
 GRADE: 1st RACE: W MALE FEMALE
 HOME ADDRESS: [REDACTED]

DESCRIPTION OF INFRACTION/INCIDENT:

[REDACTED] was using gun fingers to shoot at another student.

Article 3.22 is "THREAT / INTIMIDATION (OF STUDENT)." The offense consists of "A threat to do serious bodily harm or violence to another student by word or act, cyber bullying, or intimidation that may induce fear into another." Examples include: "a threat to kill, maim, or inflict serious harm; a threat to inflict harm involving the use of any weapon, explosive, firearm, knife, prohibited object, or other object which may be perceived by the individual being threatened as capable of inflicting bodily harm."

No reasonable argument can be made that J.B.'s conduct fits within this prohibition. J.B. made no threat to kill, maim, or harm his playmate. J.B.'s "gun fingers" posed no actual or perceived danger to anyone. His playmate was not induced to fear serious bodily harm. J.B. did not threaten actual violence with his "gun fingers." The "gun fingers" were not directed toward anyone other than the game participants. The "gun fingers" were not exhibited in a hostile or threatening manner. Rather, J.B. and his classmate were playing a game.

Yet, as noted, the school charged this innocent behavior as a "CLASS III - MAJOR INFRACTION." Other Class III Infractions include: arson; battery of a school board employee; bomb threats; burglary; sale of drugs or drug paraphernalia; possession of explosives or

firearms on school property; robbery; and “other offenses reasonably likely to cause great harm to person or property or seriously disrupt the educational process” such as gang activity participation.

In other words, the school charged a six year old boy with an infraction equivalent to a felony crime. The irony is not lost on J.B. 's parents that “[i]ntentionally hitting, pushing, kicking, or otherwise being physically aggressive with another student” is only a Class II Infraction. J.B. would be subject to a lesser maximum penalty had he punched the other student in the face!

I understand the school has since downgraded the charge to a Class II Infraction and allowed J.B. to return to his class. That is too little and too late.

This letter calls on the school district to immediately and publicly confirm it will remove any record of an infraction, disciplinary action, or other sort of report of the activities of September 1, 2023 from J.B.'s records. Additionally, the school must remove any label, warning, or other sort of classification of J.B. as a potentially violent or dangerous student.

Further, the school district should confirm that it will allow age and context appropriate playtime activities which cause no substantial disruption, contain no actual, implied, or perceived threat, and pose no danger to anyone, and that, in the future, no student will face punishment or removal, regardless of whether students or staff would prefer young boys not use “gun fingers” as part of their play.

We request a substantive response no later than September 14, 2023.

Sincerely,

FREELAND MARTZ, PLLC


M. Reed Martz