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BRAVE NEW SCHOOLS
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Zero tolerance 'insane madness' in Virginia

Honor-roll student expelled for shooting 'what amounts to a spit wad'

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By Brian Fitzpatrick

WorldNetDaily

Spotsylvania, Va., high school freshman Andrew Mikel has been suspended for the school year and has been placed in a "diversion program" by police for blowing soft plastic pellets through a pen at three classmates.

"I am currently working with the Rutherford Institute, fighting the insane madness of our local school administration and board," wrote the boy's father, also named Andrew Mikel, to WND.

"In early December, my son shot what amounts to a spitwad. They classified the spit wad as a weapon, expelled my son from school the rest of the year, filed assault charges on him with the sheriff's department, mandated that he take 'substance-abuse counseling' and 'anger-management counseling' and must do 24 hours of community service."



JROTC cadet Andrew Mikel

Originally suspended for 10 days after the Dec. 10 incident, Andrew later was suspended for the balance of the school year following a Dec. 21 hearing before the Spotsylvania County school board. His criminal charges will be expunged if he completes the diversion program for first-time offenders.

"The school board feels that they gave the child and his father a fair hearing and handled the situation appropriately," said Mark Cole, a Spotsylvania delegate to the Virginia general assembly. He intervened with the school board and sheriff's department on the boy's behalf. "They said that if the child hit someone in the eye it could have damaged their eye. They suspended the child for the rest of the school year, which I think is excessive."

[Want to know what's ailing American education? Read "The Harsh Truth About Public Schools" by Bruce Shortt.](#)

"We were able to present our side, that the punishment doesn't fit the student code of conduct," said Mikel's legal counsel, Andrew Flusche. "In my opinion they have shoehorned in this definition of weapon that triggers harsher punishment."

Andrew's grandfather, Jim Mikel, contends the hearing was anything but fair because of the testimony provided by Lisa Andruss, the Spotsylvania High School assistant principal:

"After a brief introduction, Ms. Andruss began a systemized, vicious attack on my grandson," wrote Mikel. "She made no pretense of being evenhanded or fair. She not only presented statements and evidence, but made it clear that she wanted my grandson expelled, and also wanted criminal punishment to the fullest extent of the law. She cited the school's 'zero tolerance' policy as her guideline. She produced tiny foam-like balls, and a long metallic-looking tube, which she stated they 'found in the vicinity' sometime after the events. I asked Andrew quietly if he had used this tube to shoot the plastic balls, and he said he had never seen it before. I was under the impression that the sheriff had confiscated the actual device used, part of a ball point pen, which he had."

Andrew Mikel described the tube as a straw commonly bought with a Big Gulp at 7-11, and said the assistant principal claimed she found the tube under the chair Andrew used in her office.

Spotsylvania High School's principal and Spotsylvania school administrators did not respond to WND's requests for comment.

(Story continues below)

"I think the core problem here is that teachers' hands have been tied when it comes to maintaining classroom discipline," said Cole. "In the 'old days' if a kid had done something like this he might have been paddled or perhaps suspended for a few days and the incident would have been over. Today, school boards adopt zero-tolerance policies and seem to lose common sense or perspective. Instead of handling something

like this with some reasonable disciplinary action, they call a deputy and have the child arrested."

Andrew, an honor student active in Junior ROTC and in his church, has never been in any trouble before, said his father. "He had hoped to go to [the U.S. Naval Academy], but he's been told his chances of Annapolis were gone because of this. We are talking with Virginia Military Institute still."

"I don't know how kids survive in schools nowadays," said John Whitehead, founder of the Rutherford Institute, which provides free legal assistance to people whose constitutional rights have been violated. "They're charging kids with all kinds of wacky things. A kid gets busted for having a Magic Marker in his pocket as a weapon."

Whitehead said the legal case "is just beginning."

"We've been fighting zero-tolerance cases since the mid-1990's, and it's getting worse," said the pro bono attorney. "There's a very dangerous, monolithic mindset, there's no freedom in schools." Whitehead characterized school zero-tolerance policies as "so uniform, so politically correct, so oppressive."

A Dec. 10 letter from Andruss informed Mikel that his son would be suspended for 10 days and would face the possibility of a longer suspension.

"This action results from *'assaulted three students; and possession of projectiles and device to propel projectiles'* which are violations of Student Code of Conduct section B, article 3, item b ... and item g," wrote Andruss.

Section B, article 3 of Spotsylvania County's [Student Code of Conduct](#) addresses "violent criminal conduct."

Item "b" reads: "killing, shooting, stabbing, cutting, wounding, otherwise physically injuring or battering any person;"

Item "g" reads, in part: "Any type of weapon, or object used to intimidate, threaten or harm others, any explosive device or any dangerous article(s) shall subject the student to a recommendation of expulsion."

"Weapon" includes: "any pistol, revolver, rifle, shotgun, pellet pistol or rifle, B-B gun or air rifle, starter gun, crossbow or any device capable of firing a missile or projectile."



Dangerous weapon? Spotsylvania County's photo of the pen and pellets confiscated from Andrew Mikel

Mikel, a former Navy Seabee and Marine officer and engineer, described the "weapon" in detail:

"He took a plastic pen apart and shot little balls through the body of the pen. The balls are solid, soft plastic, less than a quarter inch in diameter. They're very light, they weigh one fifth of a gram. You're lucky if you can get them about four to six feet using a pen to blow them.

"My son realizes what he did was foolish. He knows he shouldn't have done that. It wasn't appropriate, it was horseplay. Some punishment should have occurred, but they went overboard about it. If they gave him a couple of days detention I would understand, but to classify him as a violent criminal bringing weapons to school and using them to harm kids, it's just ridiculous."

"This whole thing is based on a pen being a weapon, and this was a premeditated attempt to harm someone," the father told WND. "To the school, a weapon is anything that can fire a projectile. They gave Andrew the same punishment as somebody who brought a rifle or crossbow to school.

"In this day and age, when a kid shoots a spitball, we have four state agencies involved, the Department of Juvenile Justice, the Commonwealth Attorney, the sheriff's department and the school administration," Mikel observed. "That doesn't seem like a very good use of taxpayer money, not to mention the injustice being perpetuated."

Mikel said Andrew would have to reapply next year to return to Spotsylvania High School, but he may turn to homeschooling instead.

"I'm already schooling him at home, and I'm not sure if I want to put him back in the public high school. I don't want to send him back if their discernment of what is a weapon is that poor."