



A [REDACTED] J <[REDACTED]>

J [REDACTED] suspension

1 message

J [REDACTED] <a [REDACTED] [REDACTED]@[REDACTED]>

Sun, Feb 10, 2019 at 11:46 PM

To: peter.nosal@boontonschools.org, christine.maier@boontonschools.org, jennifer.coleman@boontonschools.org

Cc: [REDACTED]

Bcc: [REDACTED]

Dear Mr Nosal and Mrs Maier,

We are very disappointed in the manner in which a HIB and code of conduct complaint was filed against J [REDACTED]. We believe that you have not only misinterpreted the laws on applying HIB, we also believe you've violated his civil rights.

The damage you have done to J [REDACTED] is immense and it cannot be understated.

We need to meet AT ONCE.

(1) We allege, pursuant to N.J.S.A. C.18A:37-15, Section 5 that you performed an improper investigation, because, J [REDACTED] was not questioned. In fact, when we demanded to discuss further to get details, your response was that we were to gather all information from J [REDACTED]. Further, you reasoned that we as his parents merely being there violated privacy laws. Further, in defiance of our demand to withhold suspension until we could gather more information, you suspended him anyway.

(2) We allege, pursuant to N.J.S.A. C.18A:37-15, Section 6 (b), that you should not have taken any action against J [REDACTED]. An investigation has clearly not been completed, nor has it been conducted in a legal manner. During a phone conversation with me, you even hinted that counseling could be provided to J [REDACTED] in regards to this matter.

(3) We allege, pursuant to N.J.A.C. 6A:16, Subchapter 1, 1.3 Definitions that no actual code of conduct or HIB actually occurred. You and I had a conversation about racially charged language. You told me that there is culture and pop culture which often uses this language in our school system, although you did not identify exactly what language it was. You did admit that it is commonly used. J [REDACTED] insists he does not use such language. He alleges a friend he was with had used language that could be construed to be racially charged, and used it to communicate with a different student, herein referred to as a 5th grader. That friend is well known to use such language in school. You did not give J [REDACTED] a chance to explain himself or present that information. We allege that such language which is commonly used between friends and so is part of culture, cannot have the effect of insulting or demeaning anyone, and therefore, does not create a hostile education environment for any student. Certainly, no one's education was interfered with, because the incident occurred outside of school hours, and, the "targeted" student (the 5th grader) was not injured in any way, let alone injured severely or pervasively. J [REDACTED] cannot understand why that 5th grader implicated J [REDACTED] when it should be clear to anyone that his friend was the one who used that language. It is this reason J [REDACTED] feels he's being targeted by the other student. Further, J [REDACTED]'s feels - as you claim the complainer said - that he feels unsafe and harassed in the school environment.

(4) We allege, pursuant to N.J.S.A. 18A:37-2, causes for expulsion or suspension that the only relevant part of the law here is "Harassment, Intimidation, or Bullying". (There is no other condition for suspension in this case (eg, weapons, drugs, violence, etc)). The law reads that suspension cannot occur, since, as we allege, J [REDACTED] had not used any racially charged language, and further, any racially charged language used by someone else does not meet any definition of HIB statutes; therefore, no act of HIB or code of conduct violation had occurred by anyone, and thus, the suspension is without merit. For anyone.

(5) We allege, pursuant to N.J.A.C. 6A:16-7.1, Code of student conduct, that you are required to conduct an informal hearing, during which, J [REDACTED] is supposed to be given the opportunity to explain his version of the facts and events regarding the alleged violation. You did not allow J [REDACTED] to do this. On Friday, when he returned to school the day after his illness, you pulled him from his first period class; you summoned him to the office; he waited what he believes to be about 30-45 minutes in the main office while you and others were in your room (apparently on the phone with us), and then he was invited into your office. The entire time he was there - about 5 minutes or so - you informed him that racially charged language is not tolerated. He agreed. You then informed him that he was suspended for the remainder of the day.

You did all this without the presence of his case worker, or us (his parents). You suspended him after we demanded you wait until we met - a demand we made during that phone call while he was waiting in the main office. In the time he was in your office, along with us (his parents) and his case worker, you were supposed to ask him about his account of the events that happened. You did not. Had you done so, you would have realized that a friend he was with, and known to use such racially charged language, and you would have (should have) conducted a more thorough investigation.

The US Supreme Court has ruled in "Goss v. Lopez, 419 U.S. 565 (1975)" that due process means (1) notice, (2) reason for the suspension and (3) an opportunity for the student to respond. You failed to give J[REDACTED] the opportunity to respond to the complaint.

J[REDACTED] has an IEP. You did not consult his case manager, Jennifer Coleman. You are required by law include Mrs Coleman in matters of his behavior, especially in instances like this.

We are concerned that school behavior ("targeting") may be happening again. Several years ago, J[REDACTED] was suspended for 13 days in a row due to improper behavior by the principal. It was a veritable pissing contest between the then-principal and J[REDACTED]. The NJ OAG Division of Civil Rights, the Office of Licensing, the Department of Justice, and the NJ Department of Education all got involved and agreed that the then-behavior is grounds for an investigation against the school. We opted not pursue that, as the school had offered us the opportunity to place J[REDACTED] in the Effective School Solutions program (ESS, or "wraparound"), and, we were told that Dr Caruso was leaving the district.

J[REDACTED]'s civil rights were unquestionably violated, and the school has not made any remedy for this.

Due to J[REDACTED]'s long history of battling ADHD and ODD, he has been a frequent target of blame by both students and administration. This is now appearing to be another example - and a serious one at that. He's being accused of being a racist, and has been punished for it without being given due process. His rights were completely trampled, and now we find out that there was possible misidentification.

This incident has been handled without due process, and was completed in such haste that the incident warrants re-review with ALL proper parties noting our concerns about further investigatory methods, outlined below.

Our meeting tomorrow will include the following agenda:

(1) WHAT was said?

So far, this has not been disclosed. Such information is important for us to discuss with J[REDACTED] about any use of language. Maybe he is unaware of what he said was inappropriate. Maybe he was reciting lyrics. Maybe... Maybe lots of things, but we don't know because nothing was disclosed to us, and all we are left to do is guess.

(2) WHAT was said meets the criteria for HIB?

As I mentioned, some racially charged words are commonly used among the student base, though not by J[REDACTED], and none of it was meant to insult, demean, or harm in any way. You must show that J[REDACTED] said something, and that whatever he said meets the criteria for HIB, and this hasn't been done, although he served a suspension for it. Therefore, you need to provide us with an exact phrasing of what was said.

(3) Who is the perpetrator?

We understand the need for privacy. We will respect that need for the moment. What we want to know, does this person have a beef with J[REDACTED]? Is there an on-going feud that we don't know about? Is it the case that what was said was taken out of context? Does the person who supposedly overheard J[REDACTED] or anyone else fully understand the difference between objectionable speech which is legal, from objectionable speech which is not allowed? Was the school coerced into making a hasty investigation?

Without a target, the school and perpetrator are thus targeting J[REDACTED]. We fully intend to involve the police, per the Boonton school policy in matters of false allegations.

(4) Were there any witnesses to the incident?

Again, we understand the need for privacy. Names can be redacted for now, but what do they have to say? Were those witnesses impartial? How reliable are they? What questions did you ask (word-for-word)? What was the manner you ask them: in the privacy of a counselor's room, or in a public setting? What administrators were around when you asked? Note that leading questions taint the investigation, and can lead to wrongful accusations against J[REDACTED]. Did any witness questioning occur in the presence of someone qualified to interrogate matters like this?

This is the second time the school has significantly abridged his rights. J[REDACTED]'s civil rights were clearly violated now and in the past. J[REDACTED]'s attitude toward the school is, quite understandably, very negative. All of that work the school did to foster the importance of advocacy by way of the child study team and the ESS program is now crumbling to the ground.

Please have relevant staff ready for a meeting first thing tomorrow morning, which will include Mrs Coleman and either [REDACTED] or [REDACTED] from ESS.

Last, no one may interrogate J[REDACTED] without our presence, and the presence of Mrs Coleman, J[REDACTED]'s IEP case worker. This specifically includes anyone from the JHS administration, the HIB investigation team, or the board of education.

Regards,

[REDACTED] and J[REDACTED] J[REDACTED]

[REDACTED] J[REDACTED]
[REDACTED]