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Attorneys for Plaintiff

P.P., a Minor, by His Parent
and Guardian, A.S.,

Plaintiff,

v.

BOARD OF EDUCATION OF THE
PINELANDS REGIONAL SCHOOL
DISTRICT,

Defendant.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
OCEAN COUNTY
DOCKET NO.

Civil Action

COMPLAINT

Plaintiff, by way of complaint against defendants, hereby
avers:

1. Plaintiff P.P. is a minor, residing with his mother,
A.S., in Little Egg Harbor Township, New Jersey. In April 2008,

the time of the events that give rise to this complaint, P.P. was an eighth-grade honor student at the Pinelands Regional Junior High School, located at 590 Nugentown Road, Tuckerton, Little Egg Harbor Township, New Jersey. P.P. is currently a student at the Pinelands Regional High School.

2. Defendant Board of Education of the Pinelands Regional School District is a corporate governmental entity, with offices located at 520 Nugentown Road, Tuckerton, Little Egg Harbor Township, New Jersey. Pursuant to N.J.S.A. 18A:13-1 et seq., it is the entity responsible for the administration and operation of the schools in the Pinelands Regional School District, including both the junior high and high schools.

3. This suit arises under both state statutory law and the New Jersey Constitution of 1947. The statutory claims are brought as an action in lieu of prerogative writ, pursuant to R. 4:69-1. The state constitutional claims are brought directly and under the state Civil Rights Act, N.J.S.A. 10:6-2.

4. In April 2008, P.P. was an honor student at the Pinelands Regional Junior High School. He was a member of the Junior Honor Society and a volunteer at the local library. He was also an accomplished musician, who played three instruments and was a member of two bands.

5. As of April 2008, prior to the incident that gave rise to this complaint, the only infraction of school rules on P.P.'s record was one detention for being late to school.

6. On April 17, 2008, acting on an anonymous tip from a parent of another student about unspecified "possible transactions regarding pills" at the junior high school, the junior high school's assistant principal searched P.P.'s school locker and P.P.'s backpack, which was hanging inside the locker.

7. The assistant principal searched P.P.'s locker because on the previous day he had seen P.P. and several of his friends conversing in a manner that the assistant principal deemed "suspicious."

8. At the bottom of the P.P.'s backpack, the assistant principal found a single "Alavert" pill, with an expired date. Alavert is an over-the-counter allergy medicine, which P.P. occasionally takes for his allergies; this particular pill had been in his backpack for months, and P.P. did not know it was there.

9. As a result of the discovery of this pill, school officials suspended P.P. from school for five days.

10. The suspension was imposed without a hearing, and without any consideration of the surrounding circumstances or any mitigating factors, such as the severity of the offense,

P.P.'s age and his disciplinary and behavioral history. Instead, the suspension was imposed in furtherance of the school district's ostensible "zero tolerance" policy against possession of any over-the-counter medications on school grounds.

11. The student handbook for Pinelands Regional High School contains no reference to a "zero tolerance" policy against possession of drugs of any kind, including over-the-counter medication.

12. P.P.'s suspension was imposed under color of state law, and pursuant to an official policy, practice or procedure of the school district.

13. As a proximate result of the suspension, P.P. was expelled from the Junior Honor Society, prevented from participating in his musical activities, and is subject to a permanent blemish on his academic record that identifies him as a student who violated the school's policy against illegal drugs. He was also embarrassed and humiliated.

COUNT I
(Action in Lieu of Prerogative Writ-
Ultra Vires Suspension)

14. Plaintiff incorporates the averments of paragraphs 1 through 13 as if fully set forth.

15. The state statutes and administrative regulations governing student conduct, and the ability of the school

district to suspend or expel students for particular kinds of behavior, do not authorize a school district to suspend a student pursuant to a "zero tolerance" drug policy.

16. To the contrary, those statutes and regulations require that, for drug offenses, school responses to violation of a drug policy take into account, at a minimum, the severity of the offense, the developmental ages of the student offenders, and the students' histories of inappropriate behavior.

17. The Board of Education of the Pinelands Regional School District is subject to these statutes and regulations, and its authority to regulate student conduct is circumscribed by them.

18. The board's adoption of a "zero tolerance" policy for possession of drugs, including over-the-counter medications, and its application in this instance to P.P., exceeds its authority under the governing statutes and regulations and is ultra vires.

19. As a proximate result of the board's ultra vires actions, P.P. has been injured as set forth above.

COUNT II
(Violation of the Procedural Due Process Guarantee
of the State Constitution)

20. Plaintiff incorporates the averments of paragraphs 1 through 19 as if fully set forth.

21. Defendant's actions, as set forth above, violated the guarantees of procedural due process contained in Article I, Paragraph 1 of the New Jersey Constitution, and deprived P.P. of his rights under that provision.

22. As a proximate result of this deprivation of his constitutional rights, P.P. has been injured as set forth above.

WHEREFORE, plaintiff demands judgment in his favor and against defendant as follows:

A. For compensatory damages.

B. For a declaration that defendant's "zero tolerance" drug policy, both on its face and as applied to P.P., violates the federal and state constitutions.

C. For a permanent injunction against the enforcement of a "zero tolerance" drug policy by the Pinelands Regional School District, including any "zero tolerance" policy against the possession of over-the-counter medication.

D. For the expungement of any reference to, or information pertaining to, the suspension from all of P.P.'s school records.

E. For full restoration of P.P. to all school activities from which he may have been excluded as the result of the suspension.

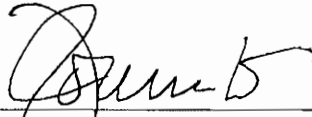
F. For attorney's fees and costs, pursuant to
N.J.S.A. 10:6-2(f), as appropriate.

G. For all other appropriate relief.

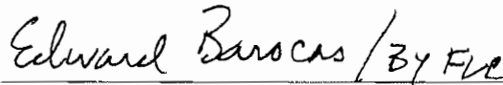
Dated:

3/9/09

BARRY, CORRADO, GRASSI & GIBSON, P.C.



FRANK L. CORRADO, ESQUIRE
On behalf of the American Civil
Liberties Union of NJ Foundation



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