

# Lacey Township High School unconstitutionally punished students for posts made off-campus and outside of school hours, says ACLU-NJ suit

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The ACLU-NJ and the law firm Pashman Stein Walder Hayden, P.C., filed a lawsuit today on behalf of two students whose First Amendment rights were violated after they were suspended for posting photos of firearms to social media made entirely outside of a school context.

“When I was pulled into the principal’s office for something I shared with my friends privately, outside of school, over a weekend, it felt like I had no place where I could truly speak freely,” said H.S., one of the students whose Snapchat post precipitated the school’s actions, whose name is being withheld because he was a minor at the time of the suspension.

“I’m filing this suit so that no one at my high school in the future has to feel like the First Amendment wasn’t meant to include them,” said Cody Conroy, the other student who was suspended for the Snapchat messages.

The Lacey Township School District overstepped its constitutional boundaries by suspending Cody Conroy and H.S., both seniors at the time, for their photos of legally owned guns resting on a table. One of the posts had no caption and the other had tongue-in-cheek text: “hot stuff” and “If there’s ever a zombie apocalypse, you know where to go.”

In filing the suit, Conroy and H.S. seek several changes and steps from the school district to bolster the speech of students:

- A statement in the two students’ permanent records clarifying that their rights were violated by their unconstitutional punishment

- An order for the Lacey Township School District that they will not discipline students for constitutionally protected speech outside of school settings
- Revisions to school policies to establish that the district cannot punish students for constitutionally protected speech that occurs outside of school settings

“The technology for communicating ideas may change, but the fundamental principle remains the same: young people have the right to express themselves, and, with rare exceptions, they shouldn’t face punishment by school administrators for it,” said CJ Griffin, a partner at the law firm Pashman Stein Walder Hayden, who, along with the ACLU-NJ, represents the students.

Conroy and H.S. posted a group message that included other students at the school on a Saturday. Because Snapchat messages expire permanently after 24 hours at maximum, the photos had disappeared before the school administration even learned of them. That Monday, a day after the post had disappeared, another parent called the school to report that their child said they were nervous to come to school after seeing the picture. The photographs of the guns lying alone on the table, accompanied by text about making preparations for the zombie apocalypse, could not reasonably be called threatening.

“It’s important for school leadership throughout New Jersey to understand that, almost always, their limited authority to punish student speech ends at the schoolhouse gate” said ACLU-NJ Senior Supervising Attorney, who also represents the former students. “To build a society that truly values freedom of speech and ideas, we need to make sure it begins with young people.”

Only in rare circumstances can school districts discipline students for free speech outside of school during their personal time, and, under the Constitution, school districts can only punish students when their speech would cause a substantial material disruption to the school environment.

#### **Media Coverage:**

"Lawsuit Filed Against School District In Ongoing Gun Controversy," Jersey Shore Online.

"ACLU sues Lacey schools for students' gun rights," app.com (April 11, 2019).

"ACLU Sues Lacey School District For Gun Photo Suspensions," Lacey Patch (April 11, 2019).

"Teens suspended for ‘zombie apocalypse’ gun pics sue school district for violating their rights," NJ.com (April 10, 2019).

"Teens suspended for ‘zombie apocalypse’ gun pics sue school district for violating their rights," lehighvalleylive.com (April 10, 2019).

"ACLU sues NJ School that suspended kids for gun Snapchat posts," New Jersey 101.5 (April 10, 2019).

"Students suspended for posting gun photos on Snapchat file free-speech suit," InsiderNJ (April 10, 2019).

"ACLU sues NJ school district on behalf of students suspended over gun photos," News 12 New Jersey (April 10, 2019).

"Students suspended over Snapchat gun photos sue school district," New York Post (April 10, 2019) .

