

THE RUTHERFORD INSTITUTE

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August 24, 2011

Via E-mail to: vonewell@cps.k12.il.us

Ms. Valeria Newell Bryant, Principal
Washington Irving Elementary School
749 South Oakley Blvd.
Chicago, IL 60612

Re: Doug Bartlett

Dear Ms. Bryant:

The Rutherford Institute¹ has been contacted by Doug Bartlett regarding the disciplinary charges against him that stem from his use of standard tools as visual aids in teaching a required component of his curriculum on tools. We are alarmed by what appears to be a gross overreaction to this mere lesson, which clearly did not pose any danger to any member of the school community. We are writing to warn you that any disciplinary action taken against Mr. Bartlett on the basis of this tool demonstration will implicate Mr. Bartlett's Fourteenth Amendment right to due process.

On August 8th, Mr. Bartlett displayed to his second-grade students several garden-variety tools, including a box cutter, a 2.25" pocketknife, wrenches, screwdrivers, and pliers. The visual aids were used as part of a "tool discussion" required by his teaching curriculum. As he displayed the box cutter and pocketknife, Bartlett specifically described the proper uses of these tools. Neither of these items was made accessible to the students.

Based on this teaching demonstration, we understand that Mr. Bartlett has been charged with possessing, carrying, storing, or using a weapon; negligently supervising children; inattention to duty; violating school rules; and repeated flagrant acts.

¹ The Rutherford Institute is a civil liberties organization that provides free legal representation to those whose civil rights are threatened or infringed.

At the outset, we must point out the absurdity of such charges under the circumstances. It is difficult to comprehend how commonplace, basic tools, used in this context, can be classified as “weapons.” In an age where public schools face an unprecedented number of real challenges in maintaining student discipline, and addressing threats of real violence, surely no one benefits from trumped up charges where no actual “weapons” violation has occurred and there is no threat whatsoever posed to any member of the school community. In fact, we respectfully submit that it is the students who suffer when they come to understand that school officials—government officials—exercise their authority to impose draconian punishments on one who neither intended to commit nor actually committed any act that can be identified as wrongful.

Second, and perhaps more importantly, you should know that the Due Process Clause of the Fourteenth Amendment protects the rights of citizens to be free of punishments imposed on the basis of conduct that they could not have known to be wrongful. In this case, because Mr. Bartlett had no intention to use or possess the tools in question as “weapons,” you may not legitimately discipline him on this basis.

It is a fundamental tenet of due process that one may not be punished for conduct unless it was absolutely clear that the conduct was wrongful.² In this case, Mr. Bartlett cannot be said to have possessed “weapons” at school. He merely sought to rely on a proven educational technique—the use of visual aids—to assist the students in retaining a required component of the curriculum he was charged to teach. Thus, this case involves serious questions as to whether disciplinary action against Mr. Bartlett comports with the requirements of due process of law under the Fourteenth Amendment to the United States Constitution.

Courts have held, in no uncertain terms, that individuals may not be punished for carrying a “weapon” unless they are found to have had at least a general intent to carry the alleged weapon for its use as such, either offensively or defensively.³ Here, it is undisputed that Mr. Bartlett had no intent to use or possess the items as “weapons,” as opposed to mere tools.

Based on reports we regularly receive from individuals across the country, we are concerned that our nation’s public schools bear increasing resemblances to prisons. While we understand your desire to maintain a safe, healthy learning environment for your students and teachers, we submit that this goal is undermined when school officials view common, useful items in the hands of qualified, responsible teachers, as “weapons” rather than tools.

² See, e.g., *United States v. Williams*, 553 U.S. 285, 304 (2008).

³ See, e.g., *Anderson v. State*, 328 Md. 426 (1992).

At this time, we request that you immediately dismiss any and all disciplinary actions against Mr. Bartlett on the basis of the events described herein. We request your response by no later than the close of business on Friday, August 26, 2011.

Sincerely,

/s/

Rita M. Dunaway
THE RUTHERFORD INSTITUTE

Cc: Stephen Carlson, Esq.
Affiliate Attorney with
THE RUTHERFORD INSTITUTE

Jean-Claude Brizard, CEO
Chicago Public Schools

Rahm Emanuel, Mayor
City of Chicago

Douglas Bartlett