

DETERRENCE

GUN-FREE SCHOOLS

DUE PROCESS

ATTENDANCE

PURPOSE:

EXPULSION

TO ESTABLISH FOR USE BY STUDENTS

AND PARENTS OR GUARDLANS, DISCIPLINE

U.S. EDUCATION

DESCRIBING THE RESPONSIBILITIES AND RIGHTS

OF STUDENTS AS PRESCRIBED

CODE OF POLICY AND REGULATIONS.

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A Word About Discipline and Decalogue

Students do not lose their rights at the schoolhouse gate. This principle held in the *Tinker* decision has been challenged and confirmed in other cases. This guide focuses on two areas of application in school — posting of the Ten Commandments in public schools and school disciplinary policies.

No student wants to be called into the principal's office and accused of breaking school rules. Imagine your fear and frustration if you did not realize you had done anything wrong. Faced with such a scenario, would you even know that you are entitled to certain rights? Lessons in this guide seek to make sure that your students, and students like them, are prepared to handle such a situation.

Understanding school policies is critical to keeping students out of trouble. After all, not all rule violations are necessarily obvious. Sometimes even seemingly innocent behavior, such as packing a fork or knife with lunch, can place an unsuspecting student in violation of a school system's zero-tolerance policies forbidding the possession of weapons. Second, students accused of breaking school rules need to be aware that they are entitled to certain due process protections. Due process means that if a student is accused of wrongdoing, school authorities must follow certain procedures before suspending or expelling that student from class, such as notifying the student of what rule he or she is accused of violating and giving the student a chance to explain his or her version of the facts. Students who know their rights will help ensure that those rights are not ignored.

A reminder to Post INSIDE program teachers: If you plan to use articles in this guide in the e-Replica format more than three months after their publication date, remember to bookmark them. The two e-Replica activities focus on fairness and rights, providing practice in using the search feature to grades 3-5 and grades 6-9 students.



ABOUT THE COVER Collage Design: Carol Porter. Photographic elements: AP Photo/Profiles in History; Mikel Family Photos; Kevin Sieff/The Washington Post.

Lessons: Students who know their rights will help ensure that those rights are not ignored. The balance between individual liberties and the public interest takes place in the school setting in cases involving the posting of the Ten Commandments in public schools and zero-tolerance policies.

Level: Low to High

Subjects: Civics, Social Studies, Government

Related Activity: Philosophy, Journalism

NIE Online Guide

Editor — Carol Lange

Art Editor — Carol Porter

Contributing to this Guide: Brian Westley, a second-year law student at American University Washington College of Law, is the new editor-in-chief of the *American University Law Review*. Brian wrote the You and Your Rights lesson (pages 16-20). Brian co-teaches a course about constitutional rights at The Academies at Anacostia (formerly Anacostia High School) in Washington, D.C. Prior to law school, he was a reporter and editor at The Associated Press. Brian majored in journalism at James Madison University.

In the fall of 1999, Professor Jamin Raskin of American University Washington College of Law launched the Marshall-Brennan Constitutional Literacy Project named in honor of the late United States Supreme Court Justices Thurgood Marshall and William J. Brennan, Jr.

Available Online

All Washington Post NIE guides may be downloaded at www.washpost.com/nie.

Send comments about this guide to:

Margaret Kaplow, Educational Services Manager, kaplowsm@washpost.com

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Discipline and The Decalogue

We focus in this guide on school policies, especially zero-tolerance policies, and the posting of the Ten Commandments in public schools. Activities provide for study and discussion of responsibilities and rights with students in Grades 3-12. Students evaluate and defend positions on the fundamental values of respect and fairness in light of the need for a safe learning environment.

Define Rights

Find out what students think their rights are. Pretend you hear someone say, "It's my right. You have to protect me!" What does the student mean by "my right"? At school, who is responsible for protecting the rights of students?

With older students, teachers may discuss the concepts of natural, civil and political rights. Natural rights are guaranteed in the First Amendment; these rights are innate to being human beings. They are also rights to life, liberty, privacy and the pursuit of happiness. Civil rights belong to citizens. These include rights of property, marriage, protection by law, trial by jury and contract for services. Political rights address involvement with government. These include the right to vote, hold public office and be a citizen.

Within the school context, what are rights that students can expect? Answers would include:

- A safe, non-threatening environment
- A climate conducive to learning
- The rights guaranteed by the U.S. Constitution
- The rights guaranteed by their state and local governments in statutes
- An education that prepares them to be productive citizens

Consider Responsibilities

Discuss how rights are balanced with responsibilities. Discuss what it means to be "responsible" and to be "a responsible student."

Within the school context, what are some student responsibilities? List student responses on the board. Answers would include:

- Show tolerance and respect for others' points of view
- Help to keep the school a clean and safe place to be
- Notify adults of behavior that might endanger others in the school
- Do not encourage bullies
- Attend school regularly, participate in class, and do one's homework
- Follow school and class rules

Do a Word Find

Younger students may be given "Find the Rights" word find. Teachers could begin by asking students if they know how many rights are guaranteed in the First Amendment to the U.S. Constitution. What are they? Have students underline the five rights in the list. After some discussion of what these guaranteed rights mean in everyday life, have students find the words in the grid.

In the Know

Case-by-Case: Independent judgment; treating each student as a separate and distinct case

Deterrence: A theory that criminal laws are passed with well-defined punishments to discourage individual defendants from becoming repeat offenders and to discourage others in society from engaging in similar criminal activity

Discipline: Punishment intended to correct or train; controlled behavior resulting from disciplinary training; self-control

Drug-Free Schools and Campuses Act of 1989: The act banned the unlawful use, possession, or distribution of drugs and alcohol by students and employees on school grounds and college campuses

Due Process: A student has the right to be treated fairly by people who are in a position of authority

Expulsion: A student is not permitted to attend school for a period of one year

Gun-Free Schools Act of 1994: Congressional legislation required states to legislate zero-tolerance laws or risk losing federal funds

Long-term Suspension: When a student is not allowed to attend class for more than 10 days

Punishment: Penalty inflicted on an offender through judicial procedure; loss that serves as retribution

Short-term Suspension: When a student is not allowed to attend class for 10 days or fewer

Zero-Tolerance Policy: Administrative rules intended to address specific problems associated with school safety and discipline

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After completing the word find, students could be asked to write a coherent paragraph or short essay using seven or more of the words. Teachers could direct the theme of student writing by giving a topic or question to answer. Answers to the word find are found on page 8 of this guide.

Let's Be Fair



An activity making use of *The Washington Post* e-Replica edition is provided for grades 3-5.

"Let's Be Fair" approaches rights through the concept of fairness in treatment. Depending on students' acquaintance with the e-Replica and their computer access, the activity could be done as a class, in pairs or individually.

A First Amendment lesson plan for younger students is provided on the First Amendment Center website (www.firstamendmentcenter.org) under lesson plans. "What's It All About?" includes "First Amendment Rights in Everyday Life" and answers. The scenes provide good starting points for discussing actions in your school. There is also an activity that includes "First Amendment Heroes," many of whom are listed in content standards.

Balance Rights and Responsibilities



A work sheet intended for students in grades 6-9 is provided.

"Balance Rights and Responsibilities" is an e-Replica activity. Students are asked to brainstorm rights and how they are balanced with responsible behavior. An example is given to begin the list.

The next step gives students practice using the search feature of *The Washington Post* e-Replica edition. Students are asked to give date, location and headline to develop the practice of recording source of data.

Students are encouraged to write about the responsibilities related to one of the rights in order to re-enforce the concept of reciprocity.

Focus on Discipline Policies

A series of suggested activities follow that are related; they are marked with to indicate they are interrelated and ideally would be completed in sequence. Two articles, an editorial and a column are provided for a study of school discipline policies and their relation to students' right to due process.

Students should know their school system's policy regarding actions that are not allowed in the school environment and disciplinary policies, including areas that fall under zero-tolerance.

"Va. student expelled for shooting pellets" is provided for middle school teachers and those teachers who wish to relate zero-tolerance policies to students' responsibilities and rights, but do not feel their students are ready to discuss the additional dimensions of a teen suicide.

Students can relate to mischief turning into serious stuff. Ask students to summarize what Andrew Mikel II did. After establishing the situation, discuss the case from the point of view of school officials. What laws and other responsibilities must they consider before taking action?

Policies Online

www.montgomeryschoolsmd.org/students/rights/

A Student's Guide to Rights and Responsibilities

Montgomery (Md.) County Public Schools policies and regulations. Available in Chinese, English, French, Korean, Spanish and Vietnamese.

www.dc.gov/DCPS/Files/downloads/SCHOOLS/Youth%20Engagement/DCMR-Chapter-25-Title-5-Final-Rulemaking-2009.pdf

District of Columbia Public Schools Notice of Final Rulemaking

Chapter B25 Student Discipline, from General Policy to Suspensions and Expulsions and Re-Entry.

www.fcps.edu/dss/ips/ssaw/SRNR/Student%20Responsibilities%20and%20Rights

Fairfax (Va.) County Public Schools handbook for Grades K-12 students and parents, Regulation 2601. Available in pdf in Arabic, Chinese, English, Farsi, Korean, Spanish, Urdu and Vietnamese.

www2.ed.gov/about/offices/list/osdfs/index.html

Office of Safe and Drug-Free Schools

Dept. of Education policy recommendations for drug and violence prevention activities, and programs relating to character and civics education

www.splcenter.org/sites/default/files/downloads/publication/Suspended_Education.pdf

Suspended Education: Urban Middle Schools in Crisis

A study of disciplinary practices by two university professors

www.americanbar.org/publications/criminal_justice_section_newsletter_home/crimjust_juvjus_zerotolreport.html

Zero Tolerance Policy

American Bar Association Juvenile Justice Policies

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Next, consider the case from the point of view of Andrew and his parents. Did he admit what he did? Should parents have to file a FOIA to get information about disciplinary action against their child?

Questions for discussion might include:

- What was the punishment? Did the punishment match the action?
- What are the pros and cons of Andrew now being homeschooled?
- Is it fair that a “year-long diversion program” is offered to clear misdemeanor charges?
- What do students think of zero-tolerance policies?

Have students write a guest editorial or column about the case and actions taken.

Consider You and Your Rights

After introducing the topic, give students “Family of Fairfax teen suicide victim calls for change in school disciplinary policies,” an article by Donna St. George to read. This is an example of a follow-up article. St. George wrote a Sunday A1 story, “Students’ suspension furthered his despair.” Teachers may wish to download the February 20, 2011, article for more background information to answer students’ questions or to give students more depth of coverage.

Discuss the situation from the points of view of the student, his parents, school officials and state legislation.

The following suggested activities provide different avenues for considering zero-tolerance policies and their impact on schools, students and their families.

List the Pros and Cons

The recent suicide of a Fairfax County teen has become part of the growing debate about whether schools’ zero-tolerance policies have gone too far. As a class, make a list on the board of the advantages and disadvantages of such strict rules. Consider whether giving school officials discretion in disciplinary hearings is good idea, or if it might lead to discrimination against some students.

After compiling a list, write a brief paragraph about which side of the argument seems most persuasive. Explain why.

Read an Editorial

The *Washington Post* editorial on this issue and case is included. Give students “A second look in Fairfax” to read. Wider side margins give space for students to annotate the editorial.

- How does the editorial writer begin the editorial? Is it helpful to have a time perspective on the issue? What additional perspective is given in the last sentence of the first paragraph?
- The second paragraph begins with a news peg. What is it?
- The School Board oversees educational issues. Why do students think the Board of Supervisors have gotten involved?
- Ask students to annotate the points made by the editorial writer in the third paragraph.
- What is the editorial stance of *The Washington Post*?
- Do students agree or disagree with this position?

Hold a Hearing

Students are to imagine that the classroom is a hearing room for

You and Your Rights

You and Your Rights lessons are written by second- and third-year law students at American University Washington College of Law. Fellows of the Marshall-Brennan Constitutional Literacy Project, they teach courses on constitutional law and juvenile justice in D.C. and Maryland.

Athlete as Role Model: Sportsmanship and Freedom of Speech April 1, 2003, *Shirley, One of the Best*

Bullies March 29, 2005, *Do Something About Them*

D.C. Voting Rights October 20, 2004, *Who Determines Election Outcomes?*

Death Penalty for Juveniles September 27, 2005, *Justice for Juveniles?*

Democracy Through Suffrage — International Enfranchisement February 21, 2005, *Force of Freedom*

Dress Codes January 28, 2003, *Talk of the Town*

Editorial Cartoons and Freedom of Speech February 25, 2003, *Mightier Than the Sword*

Ethics of Photo Manipulation December 19, 2002, ‘Good Picture’

Electoral College November 23, 2004, *Should the Electoral College Count?*

Ideal Supreme Court Appointment January 26, 2005, *Long Arms of the Law*

Music Censorship in America May 20, 2003, *Keep the ‘Ad’itude*

Pledge of Allegiance November 19, 2002, *The Pledge of News*

Religious Freedom and Tolerance April 29, 2003, *Columns of Thought*

The Supreme Court and Sexual Harrassment March 29, 2005, *Bullies*

The Supreme Court’s Role October 29, 2002, *On the Front Lines*

Voting Rights in America September 27, 2004, *Who Has the Right to Vote?*

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school disciplinary proceedings. Give students "What Would You Do?" Form two student groups: (1) school board hearing officers (perhaps those students who favored zero tolerance in the previous exercise) and (2) attorneys who represent four students who are accused of violating school rules that prohibit drugs and weapons.

Each of the scenarios provided in this exercise represent actual cases. After students have presented their cases, consider how each of the students was actually punished under zero tolerance policies:

- **Student 1** – The third-grade Delaware girl was expelled from school in 2008 for possessing a weapon (Source: *The New York Times*, www.nytimes.com/2009/10/12/education/12discipline.html)
- **Student 2** – The six-year-old Delaware boy was suspended and ordered to spend 45 days in the school system's reform school for possessing a weapon. The school board later voted to reduce the punishment for kindergartners and first-graders who bring weapons to school to a suspension of three to five days. (Source: *The Associated Press*, www.msnbc.msn.com/id/33301715/ns/us_news-education/)
- **Student 3** – The 14-year-old Virginia boy was expelled from Spotsylvania High School for possessing and using a weapon. He was also charged with three counts of misdemeanor assault. (Source: *The Washington Post*, [www.washingtonpost.com/wp-dyn/](http://washingtonpost.com/wp-dyn/))

content/article/2011/02/01/AR2011020104097.html

• **Student 4** – The 13-year-old Ohio student was suspended from school for nine days, but after she agreed to undergo drug counseling, school records were changed to show that she was only suspended for three days. The classmate who provided the pill was initially suspended for four months, but the suspension was later reduced to 13 days (Source: *The Associated Press*, <http://community.seattletimes.nwsource.com/archive/?date=19961008&slug=2353233>)

Change the Status Quo

This activity requires students have an understanding of their school's code of conduct and disciplinary actions. Placed in the context of election promises, students will apply their understanding of national laws, state statutes and school policies.

We suggest that students work in teams to create campaign posters that succinctly present two ideas for reform. It is possible that they will support a current policy, but want to modify or update it.

The assignment portion (first page) has been separated from possible solutions and tips (second page). This is done so teachers have the option of giving students these proposals to consider or letting students work without suggested solutions. Teachers might use one of the suggested solutions for class discussion to illustrate the process groups should follow. Teachers might even have a sample poster to use with the class example.

Other possible suggestions include parent/teacher conference,

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Past Post Guides

Bullies

March 29, 2005
Activities address ways to confront bullies, stop bullies and communicate the facts about bullying. Activities and articles for lower grades through high school.

You and Your Rights lesson focuses on *Gebser v. Lago Vista Independent School District* and local school policies concerning bullying.



Creating a Caring Community

November 6, 2007
Area schools have developed caring learning environments with respect for others, high expectations and character education.

Activities and articles for all age groups.



Justice for Juveniles?

September 27, 2005
KidsPost explains the trials of John Allen Muhammad and Lee Boyd Malvo and a courtroom setting. Activities include media policies of naming juveniles accused of wrongdoing. You and Your Rights lesson addresses the constitutionality of the death penalty for juveniles (*Roper v. Simmons*).

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revocation of privileges, and a verbal warning.

Post the Ten Commandments?

Students' responsibilities and rights include religious observation within the school building and grounds. Public school students have the right to privately say a prayer before eating their lunch, form religious clubs or to rally 'round the flag before school begins within specific areas of respect for others and responsible behavior. Teachers who choose to use this case, should make the distinction between private and public schools and why this distinction exists.

"Va. Ten Commandments battle continues," an article about a recent case in Giles County, Va., is included in this guide. It covers the posting of the Ten Commandments in the system's five public schools after the shootings at Columbine High School in Colorado and recent disagreement of whether these are to remain posted. Before giving students the article, teachers may need to introduce students to the Ten Commandments, purpose and concepts they present, philosophic and religious associations. Students may also need a summary of the Columbine High School shooting that is referred to twice in the article.

Vocabulary that may be reviewed before reading includes "civil liberty," "Columbine," "commandment," "deterred," "moral values," "raucous," and "resonate."

Give students copies of "Va. Ten Commandments battle continues" to read and discuss. Questions that students could be asked to answer include:

- What are the Ten Commandments?

- Why was the Decalogue originally posted in Giles County, Va., schools?
- In December 2010, Superintendent of Schools Arbogast removed displays featuring the Ten Commandments. Why did he do this? How long had the commandments been posted?
- In the article's lead, reporter Kevin Sieff reports "a pair of civil liberty groups announced they were preparing to sue the district." Name the two groups. What point of view do these two organizations represent?
- Another organization opposes these two groups. Name it and summarize the point of view it represents.
- Why are the three organizations involved in a local dispute in a county of 16,000 in the heart of the Appalachian Mountains in southwest Virginia known more for its outdoor activities?
- Summarize actions taken after the December 2010 removal of the Ten Commandments from school displays. Students may answer in a timeline or a listing.

Take a Stand or Debate

Commentary by Charles Haynes is reprinted in this guide with permission. Haynes is director of the Religious Freedom Education Project at the Newseum. Haynes is co-author of *Finding Common Ground: A First Amendment Guide to Religion and Public Schools*. He was co-editor of his high school newspaper and editorial page editor of the Emory Wheel in college.

Give students "County can uphold religious freedom by taking Commandments down" to read.

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Read About It

Alexie, Sherman

The Absolutely True Diary of a Part-Time Indian

Little Brown Books for Young Readers (2009); Grades 7-10.

The National Book Award Winner tells the story of Arnold Spirit, a Spokane Native American who transfers from the reservation school where he is bullied. A cartoonist and basketball player, Arnold desires to escape his circumstances and improve himself.

Myers, Walter Dean

Monster

Amistad (2001). Grades 7 and up.

The 16-year-old lookout in a robbery that resulted in murder is on trial. An aspiring filmmaker, Steven tells his story as a screenplay; diary entries add other dimensions to understanding the boy the prosecutor calls a monster.

Oates, Joyce Carol

Big Mouth & Ugly Girl

HarperTeen (2003). Grades 6-12.

Two top students are unlikely friends until Matt jokes in the cafeteria that he will blow up the school if his play is not selected for the drama festival. He is arrested and rumors spread in person and through e-mails.

Peet, Bill

Cyrus the Unsinkable Sea Serpent

Sandpiper (1982). Grades 3-12.

Author and illustrator Peet's Cyrus is called a sissy and wants to take out his anger on others. Through storm, doldrums and a pirate attack, he learns what he thinks of himself is more important than what others think of him.

Prose, Francine

After

HarperCollins (2003). Grades 6-10.

A novel about what happens after a school-shooting incident; protection at the school expands and freedom is extinguished in the name of safety.

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Teachers may compare and contrast *The Post* article written by Kevin Sieff with the commentary by Haynes.

- What facts do both include?
- Does Sieff remain balanced in his presentation of information? Does he quote people on both sides of the issue? Give examples.
- Who does Haynes quote in his commentary?
- What is Haynes' point of view concerning posting the Ten Commandments in Giles County public schools? Does this position apply to all public schools?
- Is Haynes' position strengthened by including U.S. Supreme Court cases? Why or why not?

Teachers could ask students to write a guest editorial or a column in which they state their position on posting the Ten Commandments in public schools. Another option would be to hold a debate on the topic. Students could take stands, do additional research and debate each other.

Take an Establishment Test

Another approach to considering the posting of The Ten Commandments in public places is to study the establishment clause of the First Amendment. Which actions in Giles County, Va., are constitutional? The "Establishment Clause Tests" is provided in this guide to help answer the question. Review the First Amendment with students with primary attention to the two prongs of the guarantee of freedom of religion (and freedom from government intervention in personal religious practice).

The Lemon test, based on the 1971 U.S. Supreme Court ruling in *Lemon v. Kurtzman*, is the standard of judicial

review in cases determining if the Establishment Clause of the First Amendment applies. *Lemon v. Kurtzman* may be found online at *Findlaw.com* (<http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=us&vol=403&invol=602>).

Ask students to apply the three questions to the case in Giles County, Va. Discuss their responses when they have finished responding to the three questions.

The Endorsement Test is a second approach to evaluating constitutionality of government action and laws. Justice Sandra Day O'Connor, in a concurring opinion, first proposed the endorsement test in 1984 in *Lynch v. Donnelly*. You may need to define "endorsement" for students.

For more information about Religious Liberty in Public Life and the interpretation of the establishment clause, visit the First Amendment Center article (www.firstamendmentcenter.org/rel_liberty/establishment/index.aspx).

Get Acquainted with the Equal Access Act

While addressing student rights within the school building, teachers might also introduce the Equal Access Act. Basically in practice, a religious- or particular interest- or philosophy-based club must be given the same access to meeting during club time as other groups if the school receives federal aid and has a "limited open forum."

Some questions that may be asked related to religious life, schools and the Equal Access Act include:

- Should the Power Through Prayer club be allowed to organize and meet during student activity time?
- Would the Islamic Student group be allowed to organize and meet during student activity time?

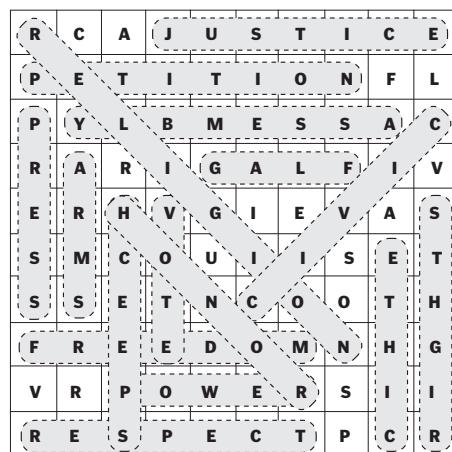
- Should the Boy Scouts of America be allowed to hold meetings in school buildings after school hours?
- If all faiths were allowed to post statements of their beliefs and principles to live by, would this meet Equal Access Act requirements?
- What statements of belief and principles would students suggest be posted to reflect their school community?
- Are students influenced by these types of postings?

For more information about the Equal Access Act, visit www.k12academics.com/us-education-legislation/equal-access-act and www2.ed.gov/about/offices/list/ocr/boyscouts.html.

Teachers might pose some or all of the above questions and additional ones to get student opinion before introducing the Equal Access Act.

If time allows, a lesson with handouts and links to resources is available from the Freedom Forum (www.freedomforum.org). Select Lesson Plans, Lesson 11, Do You Have a Prayer? Under Procedure, #2, more information about the Equal Access Act is provided. ■

ANSWERS: Find the Rights



Name _____ Date _____

Find the Rights

The rights guaranteed in the First Amendment are hidden in this word find. An additional 11 words related to your rights are also found reading left to right, right to left, up and down and on the diagonal. Some of the words share letters.

ARMS
ASSEMBLY
CIVIC
ETHIC

FLAG
FREEDOM
HONOR
JUSTICE

PETITION
POWER
PRESS
RELIGION

RESPECT
RIGHTS
SPEECH
VOTE

R	C	A	J	U	S	T	I	C	E
P	E	T	I	T	I	O	N	F	L
P	Y	L	B	M	E	S	S	A	C
R	A	R	I	G	A	L	F	I	V
E	R	H	V	G	I	E	V	A	S
S	M	C	O	U	I	I	S	E	T
S	S	E	T	N	C	O	O	T	H
F	R	E	E	D	O	M	N	H	G
V	R	P	O	W	E	R	S	I	I
R	E	S	P	E	C	T	P	C	R

Establishment Clause Tests

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

— The First Amendment

There are two clauses in the First Amendment that address the freedom of religion. The first states that government is forbidden from enacting any law respecting an establishment of religion. The second clause states citizens may practice the religion of their choice. After passage of the 14th Amendment officials at the federal, state and local levels must follow the establishment clause.

The Lemon Test

The Lemon test, based on the 1971 U.S. Supreme Court ruling in *Lemon v. Kurtzman*, is the standard of judicial review in cases involving the establishment clause of the First Amendment. The Lemon test involves three criteria for judging whether laws or governmental actions are allowable under the establishment clause. A negative answer to any of the three questions means the act is unconstitutional.

1. Does the challenged law, or other governmental action, have a bona fide secular (non-religious) or civic purpose?
2. Does the primary effect of the law or action neither advance nor inhibit religion? In other words, is it neutral?
3. Does the law or action avoid excessive entanglement of government with religion? Basically, is the government staying out of your religious choices?

If the answer to all three is yes, the law passes the Lemon test.

The Endorsement Test

Justice Sandra Day O'Connor, in a concurring opinion, first proposed the endorsement test in 1984 in *Lynch v. Donnelly*. The endorsement test asks whether the challenged law or government action has either the purpose or effect of endorsing religion or disapproving of religion in the eyes of the community members.

As O'Connor argued, “Endorsement sends a message to non-adherents that they are outsiders, not full members of the political community, and an accompanying message to adherents that they are insiders, favored members of the political community. ... What is crucial is that the government practices not have the effect of communicating a message of government endorsement or disapproval of religion.”

County can uphold religious freedom by taking Commandments down

BY CHARLES C HAYNES

It's not every day that a school board votes unanimously to ignore legal advice, defy Supreme Court precedent and invite litigation.

But that's exactly what happened earlier this month in Giles County, Va., when members of the board ordered school administrators to hang the Ten Commandments on the walls of the county's five public schools.

Rehang, actually. Until December 2010, framed copies of the Decalogue had been displayed in schools alongside copies of the Constitution for more than 10 years. Following a complaint from the Freedom From Religion Foundation, the district's superintendent (on the recommendation of counsel) took the commandments down.

Many county residents were not happy. At the school board meeting on Jan. 20, hundreds of people demanded that the Ten Commandments be returned to schoolhouse walls — and the board enthusiastically agreed. The next day, the commandments went back up.

According to *The Roanoke Times*, one resident told the board: "You have a moral obligation to what is right. Do not let our children be deprived of this right — a God-given right." The crowd cheered and shouted "Amen."

There appears to be some confusion in southwest Virginia about what rights are protected as "God-given" under our Constitution. Residents of Giles County, like all Americans, are guaranteed the right to practice their faith — a freedom that our Framers did, indeed, believe to be given by God. But there is no constitutional "right," God-given or otherwise, to use government to promote religion.

On the contrary, the First Amendment's prohibition of state establishment of religion (modeled on Virginia's Statute for Religious Freedom drafted by Thomas Jefferson) is intended to guard the God-given right of every person to choose in matters of faith without government interference.

In 1980, the U.S. Supreme Court invoked the "no establishment" principle in the First Amendment to strike down a Kentucky law requiring the Decalogue on the walls of public school classrooms.

"Posting of religious texts on the wall serves no educational purpose," said the Court in *Stone v. Graham*. "If the posted copies of the Ten Commandments are to have any effect at all, it will be to induce the school children to read, meditate upon, perhaps to venerate and obey, the Commandments. However desirable this might be as a matter of private devotion, it is

not a permissible state objective under the Establishment Clause."

Giles County school officials may believe that putting the commandments next to the Constitution sends a legally permissible secular message, given a 2005 Supreme Court decision upholding the inclusion of a Decalogue monument with 16 other monuments on the Texas State Capitol grounds (*Van Orden v. Perry*). Although where to draw the line remains murky in some cases, the prominence of the commandments as one of only two documents in the Giles County displays would not likely pass constitutional muster.

Taking down the commandments in the hallway doesn't mean banning the Ten Commandments from public schools. Teachers can and should teach about the meaning and significance of the Ten Commandments in history courses (and may temporarily post them in classrooms as a teaching aid).

Moreover, high school students may form religious clubs where they are free to gather for devotional study of scriptures. Students on any grade level may bring scriptures to school, share their faith with classmates and otherwise express their faith — as long as they don't interfere with the rights of others or disrupt the school.

If the Giles County school board members are truly interested in protecting "God-given rights," they should reverse course and bar the county's schools from permanently posting the Ten Commandments on the walls. And then they should adopt policies that make clear the appropriate place of the Ten Commandments (or any scripture) in public schools under the First Amendment.

Unfortunately, that's not likely to happen. Giles County officials appear determined to promote the majority faith in public schools, even if it means fighting an expensive (and futile) court battle.

As private citizens, school board members are free to honor God's Law. But as public servants, they are duty-bound to uphold the Constitution by ensuring that public schools do not take sides in religion. ■

Used by permission: Charles Haynes, posted January 30, 2011, www.firstamendmentcenter.org

Charles C. Haynes is director of the Religious Freedom Education Project at the Newseum, 555 Pennsylvania Ave., N.W., Washington, D.C., 20001. Web: firstamendmentcenter.org. E-mail: chaynes@freedomforum.org.

Name _____ Date _____



Let's Be Fair

Rules are made so people will be treated equally and fairly. Equal and fair treatment means that everyone is treated the same and has the same chance to succeed. Nobody receives special favors or can break rules that other people must follow.

Directions

1. Use the e-Replica edition of *The Washington Post* to find an example of someone being treated fairly.
2. Tell how the person was treated fairly.

3. Why is it important that the person was treated fairly?

4. Find an example in the newspaper of someone who is not being treated fairly.

What was unfair about his or her treatment?

5. What do you think we should do to make sure people in this situation are treated fairly?

Name _____ Date _____



Balance Rights and Responsibilities | Read and Search

1. Rights and responsibilities often go together. Use the chart to give five examples of the partnership of responsibilities and rights.

WHO	RIGHT	RESPONSIBILITY
Student	A free education	Attend school and pay attention

A.

B.

C.

D.

E.

2. Use the e-Replica edition of *The Washington Post* to find three examples of rights people have in America or in your community. List them. Include the day of publication, section of *The Post* and headline of the article in which this right is reported.

Right:

Date: Section/Page:

Headline:

Right:

Date: Section/Page:

Headline:

Right:

Date: Section/Page:

Headline:

3. Write a paragraph in which you explain a responsibility citizens have in connection with one of the rights you have listed above.

Name _____ Date _____

More Than Your Fashion Sense

Have you ever thought about what your teacher and students wear at school? What clubs and organizations meet in your school building? Here is a survey for you to think about actions and to express your views.

Do you think it is OK to wear and do the following? Answer YES, if you think this dress or activity is acceptable. Answer NO if you think this dress or activity is not acceptable and may be illegal.

- 1. My English teacher wears a silver cross on her necklace and my social studies teacher wears a Star of David.
- 2. My science teacher wears T-shirts with messages like "It's Rocket Science," "Geology: It's a Rocky Career," "Science vs. Faith," "Thank God for Science."
- 3. My little brother's Boy Scout Troop meets in our school in the evening. My p.e. teacher is his troop leader.
- 4. The assistant principal at the high school wears a yarmulke, the small round cap worn by Jewish men and boys.
- 5. Some kids in our cafeteria bow their heads and pray before they eat their lunch.
- 6. One of the cafeteria workers in our school wears a turban. When we asked, our homeroom teacher said he was a Sikh and it is part of the requirements of his religion.
- 7. My sister's geometry teacher and two girls in her class wear hijabs or Islamic headscarves.
- 8. During Spirit Week students wore T-shirts featuring their favorite bands. Administrators told some of the students they had to turn their T-shirts inside out or their parents would have to bring new shirts to wear.
- 9. Some students at the middle school were supportive of political activity in Egypt, Libya and Iraq. They designed armbands to wear at school to express their points of view.
- 10. My cousin lives in a small, rural town. Three students at the high school want to start a Gay-Straight Alliance club. They say they want to promote dialogue and tolerance. The principal said they may not organize as a school-sponsored club or hold meetings when other clubs meet.

Discuss Topics Related to Student Rights in School

Select one of the topics presented in the survey or one of the following topics. Do some research so you can discuss and write about it. Be able to relate it to your school community.

- Athletes using abusive language during games and matches
- Distribution of religious pamphlets by students
- Drug use and sale on school grounds
- Drug use off of school grounds
- Hate speech in the halls
- Online Publishing
- Rally 'Round the Flag
- T-shirt Design and Wording
- Use of Music in Student Projects
- Wearing Religious Symbols

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Background For Teachers: More Than Your Fashion Sense

Teachers need to be aware of their school system's dress policy and state statutes. Teachers also need to distinguish public school and private school application of court decisions.

These principles are given to inform your discussion with students. They are based in court decisions, including those of the Supreme Court.

Some courts have held that state statutes may restrict teachers from wearing certain clothing to preserve an atmosphere of religious neutrality. Teachers should not appear to endorse a particular religion in public schools. Teachers may wear decoration such as necklaces with crosses and Stars of David if their communities regard them as religiously "ambiguous."

Students can express their social, religious and political beliefs or show their support for teams and musical artists. However, school officials do exercise their authority to maintain a safe learning environment and deter bullying. The courts have been divided in handling cases involving T-shirts. What has happened in your state?

Teachers and other school personnel may lead or participate in activities of religious and civic nature held after school hours in the school building as long as they are there as individuals and not representing the school.

Students do not lose their rights at the schoolhouse gates (*Tinker v. Des Moines Independent Community School District*, 1969). They may express themselves in a variety of ways. They can engage in political speech, write for student media, join clubs, distribute literature and petition school officials. These rights are balanced against the need to maintain a safe environment at school and not incite violent behavior.

In *Bethel School District No. 403 v. Fraser* (1986), the Supreme Court held that "the freedom to advocate unpopular and controversial views in schools and classrooms must be balanced against society's countervailing interest in teaching students the boundaries of socially appropriate behavior."

The Equal Access Act (1984) forbids schools from discriminating against clubs because of their philosophical and religious points of view. In *Westside Community Board of Education v. Mergens* (1990), the Court upheld that if school facilities were used by other "non-curricular-related" groups it could not deny a religious club from meeting. ■

Resources

www.splc.org/

Student Press Law Center

SPLC advocates student First Amendment rights, freedom of online speech and open government on campus.

The Washington Post

e-Replica Edition

Jacobs, Thomas A.

Teens Take It to Court: Young People Who Challenged the Law

Young Adult (2006), Grades 7 and up
Looking at issues and the young people who sought legal action — law by and for the people

Raskin, Jamin B. and Maryam Ahramjani

We the Students: Supreme Court Cases For and About Students, 3rd edition

CQ Press (2008), Grades 9 and up

Summary and analysis of student cases heard by the Supreme Court

Student Press Law Center

Law of the Student Press, 3rd edition

SPLC (2008), Grades 7 and up

All you need to know to understand and practice student journalism

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YOU AND YOUR RIGHTS

Are Zero-Tolerance Policies a Plus for Students?

Students have a right to expect an education in a safe learning environment. Schools have a responsibility to ensure that both are taking place. When a student does not meet her or his responsibility as a member of the school community or breaks the rules, what should be the action of school administrators?



Case Study Background

In January, a 15-year-old boy in Fairfax County took his life months after being suspended from W.T. Woodson High School and transferred to a different school. The Fairfax County School Board suspended Nick Stuban for buying a capsule of JWH-018, a legal substance known for its marijuana-like effects. Stuban's family argues the punishment was overly harsh and believes the disciplinary process was a contributing factor in their son's death. The family is urging the school system to reform its policies.

As reported by *The Washington Post*'s Donna St. George, the family has asked for punishments that are "proportionate to the nature of the alleged infractions." In response, Fairfax Superintendent Jack Dale wrote that the school system's student handbook would be reviewed in the spring. But Virginia law does not give local school officials free reign when it comes to punishing students.

The legal basics about zero tolerance and other school disciplinary measures

The U.S. government initiated zero tolerance measures in 1994 with the Gun-Free Schools Act. The law requires states to expel for at least a year any student who brings firearms to school. If states fail to comply, they risk losing education money. The importance of keeping guns out of school was underscored in 1999 when two students went on a shooting rampage at Columbine High School in Colorado, killing 13 people. With school safety a growing concern, many school districts expanded zero tolerance policies to various other offenses such as drugs and alcohol.

Zero tolerance means school officials strictly enforce a school rule by suspending or expelling a student for any violation of that rule – regardless of intent or other mitigating circumstances. In the Washington, D.C. metropolitan area, the following laws and policies are in effect:

- In Virginia, state law requires school boards to expel students for the following offenses: bringing to school guns or other destructive devices defined by the Gun-Free Schools Act; or bringing drugs or imitation substances onto school property or to a school-sponsored event. That means a student can be expelled for bringing oregano to school if it is packaged to look like marijuana, Fairfax County schools hearing officer Dana Scanlan explained to *The Post*.
- The District of Columbia has a similar zero-tolerance approach that calls for the automatic long-term suspension or expulsion of a student who brings firearms or drugs to school.
- Maryland law states that a student who brings a firearm to school is to be expelled for a minimum of one year. However, county superintendents on a case-by-case basis can specify a shorter period of expulsion or an alternative education setting for the student.

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For all other offenses, school officials may consider various factors before punishing a student, such as the seriousness of the rule violation, the threat to other students, whether an injury occurred, and the student's age and grade level. Besides expulsion, punishments can include a short-term suspension of not more than 10 days and long-term suspensions of more than 10 days.

Critics argue that zero tolerance policies often cause more harm than good. Studies have found that students who are suspended or expelled from school are at increased risk of alienation and educational problems. A 2010 study by the Southern Poverty Law Center found that the percentage of students suspended annually from American public schools has nearly doubled over the past 30 years, with the largest increase among poor and minority students. The report attributed the increase in part to the rise of "zero tolerance" school discipline policies over the same period.

Students accused of violating school rules are entitled to due process protections. In 1974, the U.S. Supreme Court ruled in *Goss v. Lopez* that due process means a student facing a short-term suspension of not more than 10 days must be given oral or written notice of the specific violation and, if the student denies the violation, an explanation of the evidence and an opportunity to present his or her side of the story. But the Court also placed important limitations on due process.

Students who are given short-term suspensions do not have the right to an attorney, to call their own witnesses or to confront and cross-examine the school's witnesses. Critics have charged that these limitations give school officials a clear upper hand and the ability to exert enough pressure on a student to confess.

Students suspended for more than 10 days – like Stuban – are entitled to more protections, such as the right to a hearing and a lawyer. Even in these circumstances, however, critics say the process lacks impartiality because the hearing is held before school officials rather than a neutral judge.

The courts give schools considerable leeway when punishing students who violate the rules. Consider the case of 13-year-old Benjamin Ratner in Loudoun County. Ratner was suspended from school in 1999 after taking a knife away from a suicidal classmate and placing the knife in his own locker. Although school officials acknowledged that the boy acted in the classmate's best interest and posed no threat to anyone, Ratner was suspended for violating the school's zero tolerance policy on weapons. The school's decision was ultimately upheld by the Fourth Circuit Court of Appeals. However, in a concurring opinion one judge pointed out the absurdity of the situation, stating that while zero tolerance policies were adopted with noble intentions, "panic over school violence and the intent to stop it has caused school officials to jettison the common sense idea that a person's punishment should fit his crime."

This lesson is written by Brian Westley, a second-year law student at American University Washington College of Law and the new editor-in-chief of the American University Law Review. Brian co-teaches a course about constitutional rights at The Academies at Anacostia (formerly Anacostia High School) in Washington, D.C. Prior to law school, he was a reporter and editor at The Associated Press. Brian majored in journalism at James Madison University.

In the fall of 1999, Professor Jamin Raskin of American University Washington College of Law launched the Marshall-Brennan Constitutional Literacy Project named in honor of the late United States Supreme Court Justices Thurgood Marshall and William J. Brennan, Jr. For more information, visit the project website (www.wcl.american.edu/marshallbrennan/).

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YOU AND YOUR RIGHTS

What Would You Do?

Imagine that your classroom serves as a hearing room for school disciplinary proceedings. Students should divide into two groups: (1) school board hearing officers and (2) attorneys who represent the following four students who are accused of violating school rules that prohibit drugs and weapons.

Student 1

A third-grade girl who came to school with a birthday cake from her grandmother, along with a knife to cut it. The teacher notified the principal about the knife, after using it to cut and serve the cake.

Student 2

A six-year-old boy who brought to school a camping utensil that can serve as a knife, fork or spoon. The boy said he was really excited about recently joining the Cub Scouts and wanted to use the utensil at lunch.

Student 3

A 14-year-old boy used a plastic tube to blow small plastic pellets at students in the school cafeteria. The boy admitted his behavior was stupid, but that he was bored and wanted attention.

Student 4

A 13-year-old who accepted a Midol pill from a classmate after complaining of pain.

As you consider each of these cases, consider the pros and cons of zero tolerance policies.

ATTORNEYS, think about some factors that Nick Stuban's family wanted school officials to consider when handing down a punishment. You might want to explain the importance of considering a student's well-being. Also, as an advocate for students, you might consider arguing that children and teenagers should be allowed to learn – and move on – after making a mistake.

SCHOOL HEARING OFFICERS, think about the importance of maintaining a safe learning environment for everyone. Is it important to send a message to other students so that they are less likely break the rules? Does it matter if the student did not intend to cause any harm?

What type of punishment do you think is most appropriate for the student's behavior – a warning? a short-term suspension of up to ten days? a long-term suspension? expulsion? ■

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YOU AND YOUR RIGHTS

Change the Status Quo

Review Your School's Code of Conduct

Review the Student Code of Conduct for your school. Make sure you understand the rules and the consequences for breaking them. Does your school's code of conduct explain the need and importance of discipline in schools? Does the code appear to focus on correcting behavior or on punishing behavior?

Change Disciplinary Procedures

Imagine that you are running for student-body president of your school. You are troubled by the high number of students who are suspended each year for non-violent behavior that does not pose a threat to others. You are particularly troubled because studies show that suspensions increase the risk that the punished students will fall behind or drop out of school.

As part of your election campaign, you have promised to help reform the school system's disciplinary process so that students are punished without missing valuable class time.

Form campaign teams of 3-4 students to design a poster advertising ideas for reform. Your group should consist of the following people:

- Campaign manager – someone with strong organizational skills who can jot down ideas during the brainstorming stage
- Media coordinator – someone who can creatively design the campaign poster so that it communicates the group's reform ideas effectively
- Spokesperson – someone who can stand up in front of the class and communicate the group's message effectively

The campaign posters should list at least two alternative approaches that schools can use as a substitute for out-of-school school suspensions. *The Post's* Donna St. George wrote about several ideas proposed by the family of Nick Stuban, the Fairfax County teenager who took his life.

Make sure your ideas are realistic and practical. After all, this is a big part of your campaign platform and you want to make sure you can carry it out if elected!

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Possible Solutions

Below are three approaches that have been proposed. Debate them. Consider them and add your own ideas.

Saturday suspensions, as opposed to out-of-school suspension

PRO – Does not detract from regular classroom time (the student will still go to class as usual during the week and will not be alienated from teachers and classmates); provides students with a significant incentive not to misbehave. Attending school on Saturday is a far greater burden than being sent home with nothing to do!

CON – The most significant problem is transportation. Not all students can drive or walk to school, and it will likely be prohibitively expensive for school systems to provide transportation. Also, some students (particularly in lower income areas) may have weekend jobs to help provide for their families.

Provide a time-out or ‘chill-out’ room for students

When a student disrupts a class and the teacher is not able to resolve the situation, the student should be sent to a “chill-out” room within the school. This approach has been successfully adopted by several North Carolina schools. (For more information, visit: http://www.ncdjdp.org/cpsv/toolkit/acrobat/project_ease.pdf)

PRO – sending troublesome student to the chill-out room gives the classroom teacher and other students a reprieve from the misbehavior, similar to a typical suspension. But, there's an upside for the misbehaving student, too. Rather than being sent home with nothing to do, the chill-out room is staffed with a teacher (or, if money allows, perhaps a guidance counselor) who will greet the student, give the student a chance to calm down, and then discuss what happened along with alternative behavioral responses. Ideally, the student could then leave the chill-out room and resume their typical academic schedule.

CON – If the chill-out room simply becomes a dumping ground for students, then this approach is worthless. Also, the schools that use this approach must keep records of how frequently a student is sent to the chill-out room, and the reason. This ensures the process isn't being abused by students or teachers.

Community service projects

PRO – Allows students to give back to the community by picking up litter, serving food to the homeless, and donating unwanted clothes to a local shelter. Rather than punishing a student by sending him or her home with nothing to do, a service project keeps the student active and engaged. This is a great way to redirect a student's energy toward something positive rather than acting out in school.

CON – Very few cons here. This requires both school administrators and the student to actively reach out to organizations that need help, something that could be viewed a hassle and is not worth pursuing.

Tips for Preparing for a School Disciplinary Hearing

- Review the Student Code of Conduct and written policies for disciplinary actions.
- Read carefully all notices and related information that have been sent to you. If anything is unclear, be sure to ask for clarification before the hearing.
- Know the specific offense you are alleged to have committed and how the school defines the offense.
- Answer these questions: Do you agree with the facts being presented? Is there another explanation of what happened?
- If you have documents to share with the hearing officer, be sure to bring copies so that both you and the hearing officer will have copies.

Source: A Parent's Guide to Understanding Student Discipline Policies and Practices in Virginia Schools (http://www.doe.virginia.gov/support/student_conduct/parents_guide_student_discipline_policies.pdf)

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Family of Fairfax teen suicide victim calls for change in school disciplinary policies

BY DONNA ST. GEORGE
Washington Post Staff Writer

• Originally Published February 22, 2011

The family of a Fairfax teenager who took his life as he struggled with the fallout of a high school suspension called for changes in the county's disciplinary policies, in a letter sent Monday to school and county officials.

The six-page letter, which came a month after the suicide of Nick Stuban, 15, a football player from W.T. Woodson High School, asked for an end to punitive school transfers, a more compassionate hearing process and punishments that are "proportionate to the nature of the alleged infractions."

It was e-mailed to Fairfax Superintendent Jack D. Dale, copied

to members of the School Board and Board of Supervisors and sent by the Rutherford Institute, a nonprofit legal advocacy organization that is representing the Stuban family.

The letter called Fairfax's hearing process harsh and "unconscionable" and lacking in due-process protections.

Dale responded to the letter with an e-mail that cited efforts to review the school system's Student Responsibilities and Rights handbook. "I want to assure you that we do annually review our discipline policies," Dale wrote, noting that another review would be held in the spring.

Much of Dale's e-mail referred to state law, however. "The state code seems to have 'zero tolerance' for certain infractions," he wrote. "The due process requirements are also in the state code, and perhaps should be reviewed as well."

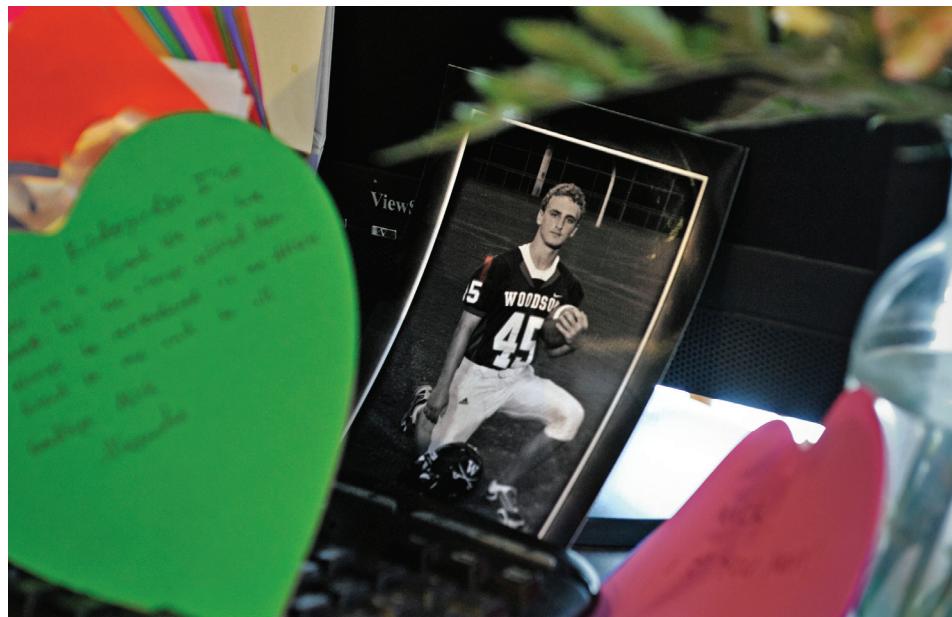
Monday's exchange follows a growing debate in Fairfax about disciplinary policies, which the Stuban family believes were a contributing factor in their son's suicide.

Nick Stuban was a sophomore at Woodson until last November, when he was suspended for buying a single capsule of JWH-018, a synthetic compound with marijuana-like effects. The substance was legal; the teen had checked it out online. School officials suspended him with a recommendation for expulsion.

Nick was out of class for two months. He expressed remorse at his disciplinary hearing for what he said was "a really stupid decision," but his parents said the hearing was adversarial and accusatory. The teen was transferred to a different high school and away from his friends, teachers and football team — attachments his parents say were especially important to him as an only child in a family grappling with a medical crisis. His mother suffers from amyotrophic lateral sclerosis, or Lou Gehrig's disease.

Dale's reply did not specifically address the Rutherford letter's 10 suggested improvements, its criticism of the hearing process or the particulars of the Stuban case. The letter had also mentioned the March 2009 suicide of Josh Anderson, who was 17 when he took his life the day before a second disciplinary hearing in Fairfax.

John W. Whitehead, president of the Rutherford Institute, said he would continue to press the issue. "What he [Dale] basically said is whatever law is out there, he will follow," Whitehead

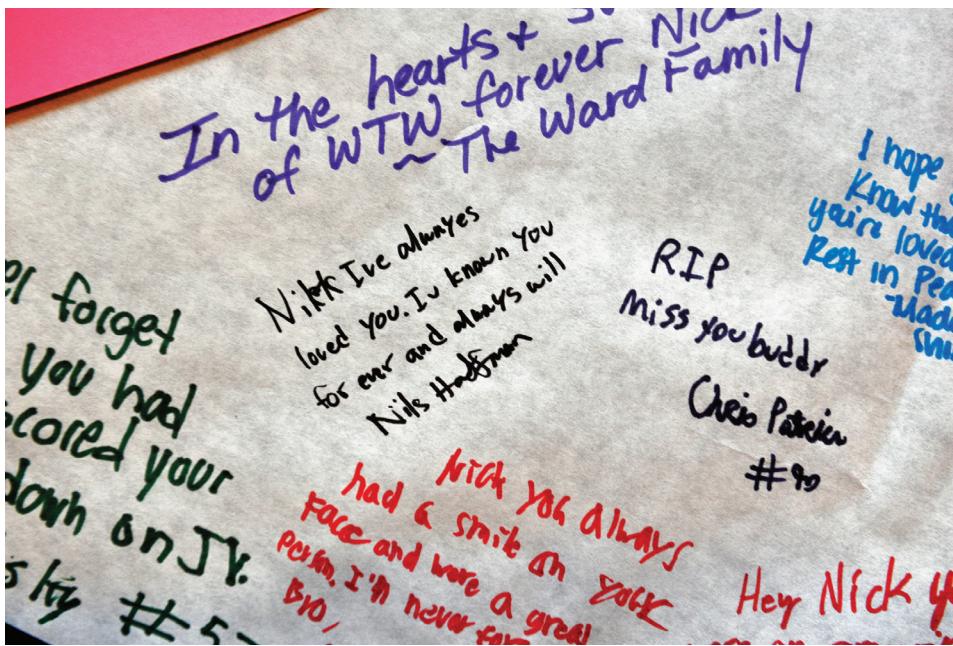


BILL O'LEARY/THE WASHINGTON POST

Nick Stuban, a W. T. Woodson (Va.) High School student, committed suicide after being expelled.

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BILL O'LEARY/THE WASHINGTON POST

Messages from friends on a scroll that the family of the late Nick Stuban, a Woodson student who committed suicide after being expelled, keeps as part of a shrine to his memory in their home.

CONTINUED FROM PAGE 21

noted. "What we're saying is, 'Go beyond the law.'"

Whitehead said the legal process falls short of basics — including an impartial judge and a transcription of the hearing. The Stuban family could have hired a lawyer, but Steve Stuban has said he was told that an attorney would create

a more confrontational climate at the hearing. They regretted not having an attorney, Stuban said.

"Obviously, the policies are having an adverse impact on at least some students," Whitehead said. "The stakes are high for the kids," he added. "You're not dealing with fully developed adults. That really increases the need for procedural due process." Several elected

officials voiced support for an in-depth review of disciplinary practices.

School Board member Sandra S. Evans (Mason) said that among her concerns are disciplinary school transfers, which send a student in trouble to another county school. "I would like to know if this has been effective as a disciplinary tactic, if this is something that works as far as keeping that student from repeating that behavior ... and whether this is necessary for the safety of our schools," she said.

Board member Martina A. Hone (At Large) said the Rutherford letter contained "suggestions worth considering, but there are other suggestions we should be considering, too." She added, "I just hope what we're moving toward is a bona fide, comprehensive review and not just editing the SR&R [the student handbook]."

Steve Stuban said Monday that the family considered a letter the best approach to resolve the problems that became evident in Nick's case. People on all sides, he said, "should be able to look at the facts and look at the discipline policies to see if they are the most appropriate approach."

Stuban and his wife, Sandy, "are not looking for a pound of flesh," he said. "It doesn't get us anything." His voice broke. "Nick is still not going to be with us."

Their goal, he said, is policy change so other families do not "have to endure an abusive system" or face similar tragedy. ■

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The Washington Post

AN INDEPENDENT NEWSPAPER

EDITORIALS

A second look in Fairfax

The school system's disciplinary policy could use some readjusting.

WELL BEFORE the suicide of a 15-year-old boy who had gotten into trouble at his school in Fairfax County, there were worries about the fairness and effectiveness of the system's discipline policy. Indeed, so worried were six School Board members last fall that they pressed, unsuccessfully, for a comprehensive review of school practices. No one can know whether the tragedy of this young man's death was tied, in any way, to these policies, but surely there are enough questions to prompt a review.

The School Board is set to meet Thursday night amid an uproar over the death of Nick Stuban, a student who had been suspended and reassigned from W.T. Woodson High School for buying a marijuana-mimicking substance that, while legal, violated the school's code of conduct. Nick killed himself on Jan. 20, and the heartbreaking story of his troubles, as detailed by *The Post's* Donna St. George, has brought new scrutiny to Fairfax discipline practices. The Fairfax Board of Supervisors, in a rare incursion into educational issues, voted unanimously to commence a dialogue with school officials on the issue, and Nick's distraught parents called for an overhaul of the policies.

It is wrong, in the interest of advancing a particular agenda, to blame this boy's death on school policies. School officials are constrained from discussing details, and — as experts will attest — suicides are not associated with a single event or factor. But there are several issues involved in this case that bolster the earlier calls for a review of school policies. Fairfax's practice of involuntary transfers, in which students are reassigned to new schools and barred from attending their home schools, is intended to allow for a fresh start. But officials in other school systems, Loudoun and Montgomery for example, told us they rarely (only when the issue is physical safety) use the practice because they aim to get students back to a regular routine as soon as possible. Fairfax officials also would do well to see whether there is more they can do to support students while they are suspended and to ensure that hearings are more constructive than punitive.

Virginia law doesn't give local officials a free hand in these matters. Critics should acknowledge as much and drop their overblown rhetoric about zero tolerance; Fairfax may need to make adjustments, but school data show discretion is being used in individual cases. School board member Martina A. Hone (At Large), who pushed for a review in October and plans to try again Thursday, has it right. "It's like having a great car for five or 10 years," she told us, "and how it's gotten out of alignment from being driven and bumped down roads ... you just need a little bit of adjusting ... to get in back in balance." ■

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PETULA DVORAK

A temperance movement springs up to combat Fairfax County schools' zero-tolerance policy

If you're wondering whether zero-tolerance disciplinary policies are good for our schools and good for our kids, take a few minutes to listen to some of the parental buzz on a Fairfax County online forum:

"Request a copy of your son's record asap," urges one poster on Fairfax Underground. "You have the right. Take that to an attorney."

"All appeals are denied," warns another. "Don't waste your time."

"Good luck — you are in for one of the worse experiences of your life — dealing with FFX County School Board."

"How horrible a system we have that we as parents need to train our kids not to speak to teachers, cops, or administrations. I've told my kids they have one thing to say — I want to speak to my parents, and to not write or sign anything."

The way the much-vaunted Fairfax County school system treats kids who make mistakes has become Topic A in the wake of the Jan. 20 suicide of Nick Stuban, 15, whose story was recounted in

heartbreaking detail Sunday by *Post* reporter Donna St. George.

By most accounts, Nick was a really good kid.

He was a die-hard on the W.T. Woodson High School football team, did well in

his classes, was active in church and was even a Boy Scout, literally.

Then last fall, he made a single stupid mistake, the kind lots of teenagers make. In Nick's case, someone told a school administrator that he had purchased one capsule of a synthetic compound that mimics the effects of pot — JWH-018. It's not even an illegal substance.

Nick admitted it, apologized and was sincere and remorseful when he and his parents attended his disciplinary hearing in November. It was the only offense of that kind he'd ever had.

Nick was the only child of military veterans Steve and Sandy Stuban, and he was struggling long before he walked into that hearing room.

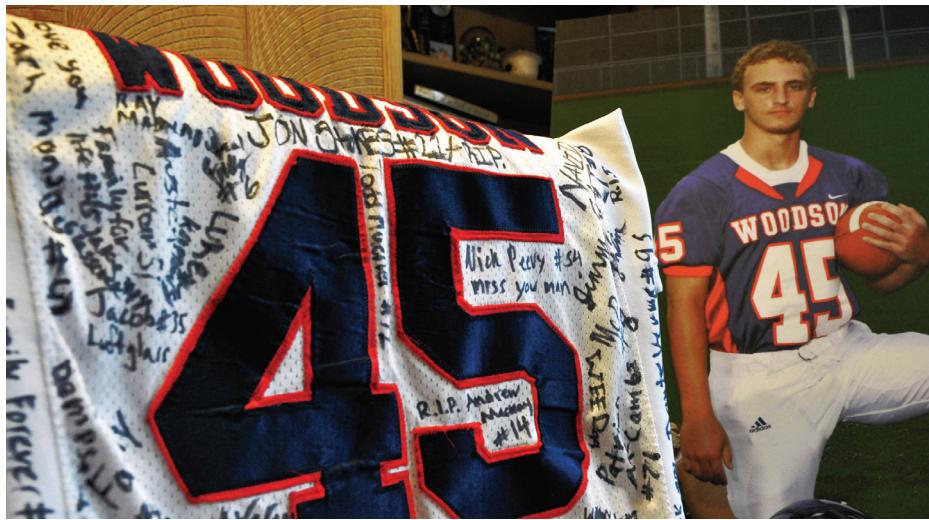
His life at home was defined by illness, an excruciating childhood spent watching Lou Gehrig's disease take his mother, muscle by muscle. He knew how to respond to her ventilator alarms and how to perform tracheal suctioning on

"Notwithstanding the foregoing provisions, the School Board may determine, based on the facts of a particular situation, that special circumstances exist and that no disciplinary action or another disciplinary action or term of expulsion is appropriate."

— FCPS Student Responsibilities and Rights Handbook

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YUAN SHUILING/IMAGINE CHINA

The family of the Nick Stuban, a W. T. Woodson High School student who committed suicide after being expelled, keeps a shrine of his memory in their home in Fairfax, Va.



FAMILY PHOTO

Steve Stuban, top, with his wife Sandy and son Nick in an early family photograph.

CONTINUED FROM PAGE 24

her. She came to his hearing in a wheelchair with her nurse.

Nick made it clear that Woodson was his second family. This was a school where he'd found inspiration, support, friendship and succor. He begged to go back.

But the hearing board showed the Stubans no compassion and no understanding. It stuck to Page 20 of the school system's disciplinary manifesto — the *Student Responsibilities and Rights Handbook* — that parents and students are required to sign each year.

On that page is explicit detail about Stuban's offense, saying that it "shall result in a ten-day suspension from school and recommendation for expulsion."

Fine. But why in the world didn't the hearing board disciplinarians consider something in the spirit of Page 23 from the same handbook: "Notwithstanding the foregoing provisions, the School Board may determine, based on the facts of a particular situation, that special circumstances exist and that no disciplinary action or another disciplinary action or term of expulsion

is appropriate."

When you look at this family's situation and the student himself, Page 23 seems a much more reasonable place to begin.

If Page 23 doesn't exist for someone like Nick Stuban, than who can it possibly be for?

And yet, the hearing board stuck to Page 20, kicking a good kid out of school, a kid who needed the embrace of his school community more than anything else.

The whole ugly process went on for almost two months. During that time, Nick wasn't allowed to go to class or to his Boy Scout meetings or to sports activities. He became withdrawn and increasingly depressed. He'd been at his new school, Fairfax High School, for just a few days when he killed himself.

Stuban is the second Fairfax County student in two years to kill himself during the disciplinary process. Josh Anderson, a 17-year-old football player at South Lakes High School, did the same thing in 2009.

An entire organization dedicated to the school system's disciplinary policies and parents' experiences with it has sprung up: Fairfax Zero Tolerance Reform.

The people who want change aren't saying that kids shouldn't be disciplined when they do something dopey. But they argue that most don't deserve to be treated like criminals, either.

Here's what the zero-tolerance policy has taught folks in Fairfax: When kids get in trouble for a minor offense, they need to clam up while their parents lawyer up. Families who treat a kid's screw-up head-on, with honesty, integrity and sincerity, as the Stubans did, will pay a price — sometimes a terrible price.

Expelling kids for shooting plastic pellets out of a pen case, strip-searching them in a hunt for Ibuprofen or writing a 6-year-old up for sexual harassment after a playground booty smack is not education. It's an over-lawyered response that flies in the face of common sense.

Fairfax Superintendent Jack D. Dale said that zero tolerance was not a factor in the Stuban case and that the disciplinary process wasn't a factor in Nick's suicide. He called that conclusion "erroneous."

Here's the word I'd use to describe all of it: cruel. ■

— February 22, 2011

E-mail me at dvorakp@washpost.com.

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Va. student expelled for shooting pellets

Some say case shows that ‘zero-tolerance’ policies are excessive

BY KEVIN SIEFF

Washington Post Staff Writer

• Originally published on February 2, 2011

Andrew Mikel II admits it was a stupid thing to do. In December, bored and craving attention, the 14-year-old used a plastic tube to blow small plastic pellets at fellow students in Spotsylvania High School. In one lunch period, he scored three hits.

“They flinched. They looked annoyed,” Mikel said.

The school district saw it as more than a childish prank. School officials expelled him for possession and use of a weapon, and they called a deputy sheriff to the scene, said Mikel and his father, Andrew Mikel Sr.

The younger Mikel, a freshman, said he was charged with three counts of misdemeanor assault. The case was first reported by the Web site WorldNetDaily.

Spotsylvania school officials declined to comment on the incident, citing student confidentiality rules. But documents that the school produced when Mikel’s father filed a Freedom of Information Act request show internal division over the matter.

The federal Gun-Free Schools Act mandates that schools expel students who take weapons, including hand guns, explosive devices and projectile weapons, to school. E-mail traffic among school officials showed they ruled that Mikel’s plastic tube, which was fashioned from a pen casing, met the definition of a projectile weapon because it was “used to intimidate, threaten or harm others.”

School officials in some e-mails referred to the plastic casing as a “metal tube.” The plastic pellets were called “B-Bs.”

“We have an obligation to protect the students in our building from others who pose a threat to the over-all safe learning environment,” Russell Davis, principal of Spotsylvania High, wrote to other school officials in one e-mail.

But the school’s hearing officer, John Lynn, wrote to administrators that he was “not at all comfortable expelling or suspending this student for the remainder of the year,” according to the documents. School officials insisted. When Mikel’s father appealed the case, the school board’s three-member disciplinary committee upheld the ruling.

“I was just astonished when I heard,” said the younger Mikel, who is being home-schooled.

Parents and civil liberties advocates point to the case as an illustration of the excesses of “zero tolerance” disciplinary policies implemented in many school districts across Virginia and the nation. The Rutherford Institute, a Charlottesville civil liberties organization, is appealing the case in state Circuit Court.

“What happened to Andrew Mikel is an example of how oppressive zero-tolerance policies have become,” said John W. Whitehead, president of the

institute. “School officials have developed a very dangerous mind-set that allows virtually no freedom for students, while at the same time criminalizing childish behavior.”

In December, the apparent suicide of Nick Stuban, who had been expelled from Fairfax County’s W.T. Woodson High School weeks before his death, sparked concern about the district’s disciplinary policy, which some parents called overly punitive.

Virginia officials say 3,557 students were expelled in the state in the 2008-09 school year, but most of those expulsions were later modified to suspensions.

The three Spotsylvania school board members who rejected Mikel’s appeal did not return phone messages. Amanda Blalock, a board member not on the disciplinary committee, said that Spotsylvania officials have latitude in implementing state and federal disciplinary regulations, despite claims by some administrators that they are hamstrung by such policies.

“There’s still plenty of flexibility at the local level,” Blalock said. “Sometimes we’re just dealing with a stupid mistake a kid makes, not a criminal action.”

Mikel will be cleared of the misdemeanor criminal charges if he participates in a year-long diversion program, he said. The county sheriff’s office did not return messages seeking comment.

Some residents and Spotsylvania officials are questioning the school district’s handling of the case.

“More and more school districts apply these zero-tolerance policies, and common sense goes out the window,” said Del. Mark L. Cole (R-Fredericksburg). “Something like this can haunt a kid for the rest of his life, just for a little mischief.” ■



An evidence photograph from the county shows the soft plastic pellets and a disassembled pen tube that Andrew Mikel used to blow the pellets at three classmates.

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Va. Ten Commandments battle continues

Religious display could return to schools in effort to bolster case

BY KEVIN SIEFF

Washington Post Staff Writer

• Originally Published February 24, 2011

The School Board in Giles County, Va., voted this week to remove the Ten Commandments from the walls of its public schools after a pair of civil liberty groups announced they were preparing to sue the district.

But officials involved in the case suggested that the commandments might be replaced, along with a number of other historical documents in an effort that could strengthen the school district's case in court.

School officials put the commandments up 12 years ago, in the aftermath of the shootings at Columbine High School, to help encourage a sense of moral values in the school system. In December, after receiving an anonymous complaint, Superintendent Terry Arbogast decided to remove displays featuring the commandments. But in a raucous School Board meeting in January, the board voted unanimously to return them to the school hallways. County officials said they would proudly help fight the case in court.

Now the commandments — which are placed in the same frame as the preamble to U.S. Constitution — have again been removed. Residents expressed confidence that they will be back again after a legal battle that could resonate far beyond southwestern Virginia, with attorneys converging on Giles from across the country to take on the case.

The American Civil Liberties Union

and the Wisconsin-based Freedom from Religion Foundation announced their intention to represent two families that object to the commandments being displayed. And the Orlando-based Liberty Counsel, a conservative legal group that focuses on cases involving religious expression, has said it would defend the school district at no cost.

In the meantime, residents are preparing to buy billboards and paint tractor-trailers with the words, "We support the Ten Commandments in our schools."

"We're just gearing up for this," said pastor Shahn Wilburn, who first suggested displaying the Ten Commandments after Columbine. "No one here is backing down."

Why school officials decided to remove the commandments Tuesday is still in some dispute.

Giles County Superintendent Terry Arbogast told NBC affiliate WSL (Channel 10) that the Liberty Counsel would not defend the school division if it kept the old display. But Liberty's founder, Mathew Staver, disputed that account.

"We made it clear that we would be willing to defend the school whether they kept the current display or altered it," he said. "There are pros and cons to both strategies. We never said, 'Here's the better chance.'"

In the past, displays including the Ten Commandments have sometimes fared well against court challenges when the display incorporated secular historical documents. But the fact that Giles's display remained unchanged — and largely uncriticized — for more than a



BY KEVIN SIEFF/THE WASHINGTON POST
The Ten Commandments are hung in the same frame as the first page of the U.S. Constitution at Macy McClaugherty Elementary School in Pearisburg, Va.

decade could also have been a boon to the district's legal defense, Staver said. "It could be seen as a trade-off."

School Board member J.B. Buckland said the district was deterred by the potentially high costs of a lawsuit, which would have been their responsibility if Liberty Counsel declined to take the case pro bono.

"We can't justify spending \$300,000 at a time like this, when we need that money for instruction," he said. "But based on the Liberty Counsel's advice, we will consider putting something back up."

Arbogast could not be reached for comment Wednesday.

Federal courts in recent years have issued varied rulings on cases involving the Ten Commandments in public buildings. Staver said the Liberty Counsel in the past five years has won four such cases in federal courts of appeal.

But constitutional scholars say the Supreme Court, which would likely decide a case such as Giles County's, is unlikely to agree with such a display in a public school. ■

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Academic Content Standards

This lesson addresses academic content standards of Maryland, Virginia and the District of Columbia.

Maryland

Social Studies, Political Science:

Describe individual rights and responsibilities in the United States

- a. Describe responsibilities associated with certain basic rights of citizens, such as freedom of speech, religion, and press, and explain why these responsibilities are important (Standard 1, Topic C, Grade 5)

Social Studies, Political Science:

Examine the impact of governmental decisions on individual rights and responsibilities in the United States

- a. Describe responsibilities associated with certain basic rights of citizens, such as freedom of speech, religion, and press, and explain why these responsibilities are important
- b. Explain how rules and laws protect individual rights and protect the common good (Standard 1, Topic C, Grade 8)

Government, Political Science: The student will analyze the impact of landmark Supreme Court decisions on governmental powers, rights, and responsibilities of citizens in our changing society (1.2.1) (Standard 1, Topic C, Indicator 1)

Government, Political Science: The student will analyze legislation designed to protect the rights of individuals and groups and to promote equity in American society (1.2.2) (Standard 1, Topic C, Indicator 2)

The Maryland Voluntary State Curriculum Content Standards can be found online at <http://mdk12.org/assessments/vsc/index.html>.

Virginia

Social studies, Civics: The student will

recognize that Americans are a people of diverse ethnic origins, customs, and traditions, who are united by the basic principles of a republican form of government and respect for individual rights and freedoms. (3.12, Grade 3)

Civics and Economics: The student will demonstrate knowledge of citizenship and the rights, duties, and responsibilities of citizens by

- d) examining the responsibilities of citizenship, including ... keeping informed about current issues, and respecting differing opinions in a diverse society. (CE3)

GOVT.3: The student will demonstrate knowledge of the concepts of democracy by

- a) recognizing the fundamental worth and dignity of the individual;
- b) recognizing the equality of all citizens under the law;
- c) recognizing majority rule and minority rights;
- d) recognizing the necessity of compromise;
- e) recognizing the freedom of the individual.

GOVT.11: The student will demonstrate knowledge of civil liberties and civil rights by

- a) examining the Bill of Rights, with emphasis on First Amendment freedoms;
- d) exploring the balance between individual liberties and the public interest;
- e) explaining every citizen's right to be treated equally under the law.

Standards of Learning currently in effect for Virginia Public Schools can be found online at www.doe.virginia.gov/testing/sol/standards_docs/index.shtml

Washington, D.C.

U.S. History: Describe the powers of government set forth in the Constitution and the fundamental liberties ensured by the Bill of Rights (P) (The Constitution of the United States (1977-1789), Grade 8, 9)

Social Studies, Government: Students evaluate and take and defend positions on the scope and limits of rights and obligations as democratic citizens, the relationships among them, and how they are secured.

1. Discuss the meaning and importance of the rights guaranteed under the Bill of Rights and how each is secured.
5. Describe the reciprocity between rights and obligations, that is, why enjoyment of one's rights entails respect for the rights of others. (Rights and Responsibilities of Citizens, Grade 12, 12.8)

Social Studies, Government: Students evaluate and take and defend positions on what the fundamental values and principles of civil society are, their interdependence, and the meaning and importance of those values and principle Responsibilities of Citizens, Grade 12, 12.9)

2. Explain how civil society makes it possible for people, individually or in association with others, to bring their influence to bear on government in ways other than voting and elections.

Learning Standards for DCPS are found online at <http://dcps.dc.gov/DCPS/In+the+Classroom/What+Students+Are+Learning>