

Sixth Grader Suspended, Reported to Police for Displaying Toy Gun During Zoom Class as Part of Assignment to Look 'Scary'

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by [The Rutherford Institute](#)

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PDF Files:

[The Rutherford Institute's letter to Socrates Academy](#)

["Parental Reservation of Rights – Remote Learning Surveillance" opt-out letter](#)

MATTHEWS, N.C.— The Rutherford Institute has come to the defense of a North Carolina student who was suspended from school and reported to police for possessing a look-alike weapon and making a threat after he displayed a toy gun during a virtual class as part of a Halloween assignment to “look scary.” In a [letter](#) to the principal of Socrates Academy in Matthews, N.C., Rutherford Institute attorneys are demanding that the weapons charges be removed from the child’s school records. In the wake of a growing number of incidents in which students have been suspended and reported to police by school officials for having toy guns nearby (at home) while taking

part in virtual schooling, The Rutherford Institute has also made available to parents a [precautionary "opt out" letter](#) as a means by which families whose children are taking part in remote learning / virtual classes might assert their Fourth Amendment privacy rights and guard against intrusive government surveillance posed by remote learning technologies.

"While the COVID-19 pandemic has undoubtedly introduced significant challenges for the schools, as they vacillate between holding classes online, in-person or a hybrid of the two, remote learning (by way of online or virtual classes) should not be used to justify the expansion of draconian zero tolerance policies to encompass so-called 'violations' that take place in students' homes and home environments," said constitutional attorney John W. Whitehead, president of The Rutherford Institute and author of [Battlefield America: The War on the American People](#). "This incident should serve as a cautionary tale for the rest of the nation's public schools on what *not* to do when similar circumstances arise as they undoubtedly will: students would be better served if school officials opted to employ some common sense and did *not* overreact, overstep and overreach."

Like many other schools around the country since the COVID-19 pandemic struck, Socrates Academy conducts virtual classes using the Zoom meeting application. For at least part of their schooling, students remain at home and receive instruction and participate in classes at a webcam-enabled computer where they see and are seen by their teacher and classmates. On October 27, a sixth grader at Socrates Academy was participating from home in a Chinese class via Zoom when the teacher asked students to make a scary face when asked "Trick or Treat" as part of a Halloween activity. When this particular sixth grader's turn came, he wordlessly pointed a broken toy gun at the computer screen as his scary gesture. It was the only time the toy appeared during the class. Afterwards, the teacher reported the incident to the Academy's principal. School

officials subsequently suspended the boy until November 2 for violating school policies banning weapons and threatening another student. The incident was also reported to the police, who visited the child's home to conduct a "safety check." In its [letter demanding that the weapons charge be expunged](#) from the child's record, Rutherford Institute attorneys point out that state law forbids application of school disciplinary policies to off-campus conduct unless the conduct has a direct impact on the safety of individuals in the school.

The Rutherford Institute, a nonprofit civil liberties organization, defends individuals whose constitutional rights have been violated and educates the public about threats to their freedoms.

Case History

[September 17, 2020 • Rutherford Institute Issues 'Opt Out' Letter for Families to Preserve Privacy Rights at Home in the Presence of Virtual Classroom Surveillance](#)

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