

Investigatory Interviews of Students and the Fourth Amendment

The constitutionality of a search and seizure by a public school district is judged by balancing the student's Fourth Amendment interests against the promotion of legitimate governmental interests. Skinner v. Railway Labor Executives' Assoc., 489 U.S. 602, 67, 109 S.Ct. 1402, 1413, 103 L.Ed.2d 639 (1989) (quoting, Delaware v. Prouse, 440 U.S. 648, 654, 99 S.Ct. 1391, 1396, 59 L.Ed.2d 660 (1979)). Courts have recognized that the government interest in an orderly school environment (whereby school officials are able to exercise their broad supervisory and disciplinary powers without worrying that every encounter with a student will be subject to constitutional challenge) is very high, particularly when the corresponding intrusion on the student is minor. Accordingly, courts traditionally have held that a search and seizure in a school environment is valid if the school employee had "reasonable suspicion" to initiate the search or seizure.

Recent state court decisions have addressed whether the "reasonable suspicion" standard for searches, also applies to investigatory interviews of students. In this regard, courts have held that such interviews do not offend the Constitution, so long as they are not "arbitrary, capricious, or for the purposes of harassment." More to the point, the Pennsylvania Superior Court concluded in In re D.E.M., a 1999 decision, that the policy served by the reasonable suspicion standard for searches does not apply to the detention and questioning of a student by school officials. In the D.E.M. decision, the Pennsylvania Superior Court concluded that the mere detention and questioning of a student constitutes a more limited intrusion than a search of his or her person and property. Thus, "it makes no sense to require the same level of suspicion to justify the school officials' actions in each situation." The court recognized that to require teachers and school officials to have reasonable suspicion before merely questioning a student would destroy the informality of the student-teacher relationship, which the United States Supreme Court has respected and preserved.

Therefore, in balancing the competing interests between a school district and a student detained and questioned for suspicion of wrongdoing, courts have confirmed that such questioning does not violate the Fourth Amendment unless the school district employee's actions were arbitrary, capricious or for the purpose of harassment.

Although the courts have not yet addressed a related question, we note that it is clear that school officials may interview a student accused of wrongdoing without first notifying the student's parents. Likewise, parents do not have a right to be present for such questioning, contrary to what many parents think.

Clients who have questions regarding issues discussed in this article, or any education law matter, should feel free to call us at 215-345-9111.