

# School Law Alert

*July 2009*

## **STUDENT STRIP SEARCH HELD UNCONSTITUTIONAL**

The U.S. Supreme Court recently ruled that Arizona school officials violated a 13-year-old girl's Fourth Amendment right to be free from unreasonable searches and seizures when they conducted a strip search of the middle school student based on their suspicion that she had brought forbidden prescription and over-the-counter drugs to school. In *Safford Unified School District v. Redding*, the Court concluded that the strip search of the student was unconstitutional because it was excessively intrusive in light of the relatively benign nature of the threat presented. However, the Court also held that the school district officials responsible for carrying out the search were protected from liability because the applicable law governing searches of students in the school context was not clearly established at the time of the violation.

Savana Redding, the student who was the subject of the search, first came to the attention of school officials after a fellow student had reported that Savana had given her prescription-strength ibuprofen pills. Administrators were worried about drugs and other forms of contraband on campus, as another student had recently informed school administrators that "certain students were bringing drugs and weapons on campus," and that he had gotten sick after taking pills that "he got from a classmate." School officials did not immediately conduct a strip search of Savana, but instead first searched her backpack, finding nothing. The assistant principal then directed the student to proceed to the nurse's office, where the nurse asked her to "remove her jacket, socks, and shoes," which left her in "stretch pants and a T-shirt (both without pockets), which she was then asked to remove." Savana was then instructed to "pull her bra out and to the side and shake it, and to pull out the elastic on her underpants, thus exposing her breasts and pelvic area to some degree."

In determining the reasonableness of a school official's decision to search a student, courts typically ask two basic questions: (1) whether a search is "justified at its inception," as determined by whether reasonable grounds exist to believe that a search will turn up evidence that a student has violated or is violating either the law or school rules; and (2) whether a search is permissible in scope, which occurs when the measures adopted are reasonably related to the objectives of the search and not overly



intrusive in light of the age and sex of the student and the alleged misconduct.

In considering the first part of the test, the Court concluded that the administrators' suspicions about Savana's conduct were sufficient to justify a search of her backpack and outer clothing, as school officials had initially conducted. The Court held that the school officials' subsequent search was impermissible in scope, however, because it was not reasonable for school administrators to force Savana to "pull out her underwear" in light of the nature of the misconduct in question. The court emphasized the limited nature of the threat posed by the particular drugs for which school officials were searching, and observed that there was no reason to believe that the student was carrying pills in her underwear.

This case highlights the tension between students' Constitutional right to be free from unreasonable searches and seizures and school administrators' need to maintain orderly, drug-free school environments. In the case of a strip search, courts will scrutinize the impact on the individual student in ruling on the propriety of the search. In an increasingly litigious society, before conducting a search, school officials should be sure that there is, in the words of the Redding Court, at least "a moderate chance of finding evidence of wrongdoing," i.e., that a student is or has violated the law or school rules. School officials must also remain mindful that even if they have reasonable grounds for commencing a search, the Constitution requires that the scope of the search they conduct be reasonable as well. This requires that school officials consider the particular nature of the alleged misconduct they are investigating, and ensure that the search is appropriate in light of the age and sex of the student. Finally, school officials should seek legal assistance before taking any action that might reasonably implicate students' Constitutional rights.

## QUESTIONS OR ASSISTANCE?

If you have any questions about this client update, please contact Richard A. Mills, Jr. at (860) 251-5706 or Matthew Venhorst at (860) 251-5334.

This communication is being circulated to Shipman & Goodwin LLP clients and friends. The contents are intended for informational purposes only and are not intended and should not be construed as legal advice. This may be deemed advertising under certain state laws. Prior results do not guarantee a similar outcome. © 2009 Shipman & Goodwin LLP.



## SHIPMAN & GOODWIN<sup>LLP</sup>

COUNSELORS AT LAW

One Constitution Plaza  
Hartford, CT 06103-1919  
(860) 251-5000

300 Atlantic Street  
Stamford, CT 06901-3522  
(203) 324-8100

289 Greenwich Avenue  
Greenwich, CT 06830-6595  
(203) 869-5600

12 Porter Street  
Lakeville, CT 06039-1809  
(860) 435-2539

[www.shipmangoodwin.com](http://www.shipmangoodwin.com)