

Latest Legal Developments On Student Searches

Articles April 17, 2017

Highhouse v. Wayne Highlands School District, – F.Supp.3d — 2016 WL 4679012 (M.D. Pa. Sept. 7, 2016): claims relating to unlawful strip search of student accused of stealing money against individual employees and a school district survive a motion to dismiss; *Sayler v. Holidaysburg Area School District*, 3:16-57 (W.D. Pa. September 26, 2016): claims relating to an unlawful search and seizure of an autistic student accused of possessing a knife against individual employees and a school district survive a motion to dismiss.

DISCUSSION

Highhouse v. Wayne Highlands School District

In *Highhouse v. Wayne Highlands School District*, — F.Supp.3d — 2016 WL 4679012 (M.D. Pa. Sept. 7, 2016), a male high school student (“Plaintiff”) was strip searched by two school district employees (“Employees”) who believed that the Plaintiff stole \$250 from another student during gym class. The Employees ordered the Plaintiff to strip down to his underwear and then pulled on the elastic waistband of the underwear, exposing Plaintiff’s private areas.

The Plaintiff filed a complaint against the Employees and the school district (“District”) asserting, among other things, that the strip search violated his Fourth Amendment rights against unreasonable searches and seizures.

Generally, a court will apply “a standard of reasonable suspicion to determine the legality of a school administrator’s search of a student.” However, in *Safford Unified School District #1 v. Redding*, 557 U.S. 364 (2009) (“*Safford*”), the Supreme Court of the United States noted the “categorically extreme intrusiveness” of student strip searches and created a new rule regarding the reasonableness of such searches. To justify this kind of intrusion, school officials must: 1) have some evidence that the item they suspect is being hidden by the student is dangerous in terms of its “power or quantity”; or 2) have some specific reason to suppose that the forbidden item is hidden in a student’s underwear.

In *Highhouse*, the court found that, based on the allegations in the complaint, the Employees did not have a valid basis to conduct a strip search. Unlike a weapon or drugs, money is not inherently dangerous. Moreover, the Employees had no reason to believe that the Student hid the money in his underwear. Accordingly, the court found that the Plaintiff adequately stated a claim that the Employees violated his Fourth Amendment rights when they strip searched him.

The Court also found that the District may be liable for the strip search. Generally, school districts can only be liable for the actions of their employees if the school district has an official policy or custom that caused the asserted constitutional deprivation.

However, a policy may be established several different ways, including a school district’s failure to train its employees. A plaintiff relying on a “failure to train” theory must show that the failure caused a pattern of violations or that a violation of rights is a highly predictable consequence of the failure to train employees how to handle recurring situations.

The Court found that the Plaintiff made sufficient allegations that the District failed to properly train its employees regarding proper detentions and searches of students and denied the District’s motion to dismiss.

Sayler v. Holidaysburg Area School District

In *Sayler v. Holidaysburg Area School District*, 3:16-57 (W.D. Pa. September 26, 2016), an autistic student (“Plaintiff”) was injured when employees (“Employees”) of the school district (“District”) were investigating an allegation that the student

was in possession of a knife. The complaint alleged that the staff and employees of the District knew that the Plaintiff was autistic and that he experienced extreme fear and agitation when touched by or confined with others.

The Plaintiff was pulled out of class and told that there was a rumor that he was going to bring a knife to school and stab another student. The Plaintiff denied the rumor and Employees said that they believed him, but that they were going to continue the investigation.

The Employees searched the Plaintiff's locker and binder, but did not find a knife or other contraband. While searching, the Employees left the Plaintiff unsupervised, indicating that they did not consider him to be a threat. The Plaintiff also emptied his pockets and lifted his shirt in front of the Employees to show that he did not possess a knife. The Plaintiff asked to call his mother, but the Employees refused. One of the Employees then searched the Plaintiff by touching and grabbing him and eventually slamming him to the ground, fracturing Plaintiff's kneecap and causing other physical and emotional injuries.

The Plaintiff brought claims against the District and the Employees for conducting an illegal search and seizure in violation of his Fourth Amendment rights.

As set forth above, searches conducted in public schools that do not involve strip searches are governed by the reasonableness standard. The measures adopted must be reasonably related to the objectives of the search and not excessively intrusive in light of the characteristics of the student and the nature of the infraction.

The court found that the Plaintiff stated a valid claim against the District and the Employees because Plaintiff alleged that the Employees did not believe he had a knife, had already searched Plaintiff's belongings and pockets, knew that Plaintiff was autistic and became distressed when touched and still proceeded to perform a rough physical search that resulted in a broken kneecap. Accordingly, based on Plaintiff's allegations, the search was not reasonable.

PRACTICAL ADVICE

These cases should remind school districts that they must work with their solicitors to ensure that district officials and employees are properly educated and trained with respect to the proper exercise of disciplinary and investigatory power, including detentions and searches of students, because the failure to do so can result in liability for the employees and the school district.

In order for a student search to be permissible, the school district must have reasonable suspicion of wrongdoing and the resulting search must be reasonably related to the objectives of the search. As indicated in the *Saylor* case, reasonableness will be judged in light of the characteristics of the student and the nature of the infraction.

School districts should be reluctant to have its employees conduct strip searches. As noted by the court in *Highhouse*, student strip searches are "embarrassing, frightening, and humiliating," and constitute "categorically extreme intrusiveness" which suggests that a strip search of a student will almost never be justified. In all but the most extreme circumstances, if there is a suspicion of a serious threat or a violation of the law, a school district should contact the local police department rather than perform an improper search.

For additional information, contact Chris Voltz.