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SEARCHING STUDENT MOBILE DEVICES

On June 25, the United States Supreme Court issued an important new opinion about the search of mobile phones. In *Riley v. California*, the court ruled that police exceeded their authority when they searched a suspect's mobile phone upon his arrest on weapons charges. In reversing *Riley's* conviction, the Supreme Court emphasized the vast scope of personal information stored on mobile devices and specifically enunciated the right of citizens to be free from searches of their mobile devices unless police secure a search warrant first. The court noted that more substantial privacy concerns are at issue when digital evidence is involved. And although the government had expressed concerns about the destruction of evidence and remote wiping of incriminating evidence as reasons why searches must be permitted without delay, the court dismissed those concerns.

This new Supreme Court opinion should cause school officials to utilize caution before searching a student's mobile device. The standard for initiating the search of any student property has long been a question of whether there is a reasonable belief that the search will uncover evidence of a violation of the law or the rules of the school. We have, in the past, suggested that the same standard be applied to mobile devices. The *Riley* decision does not explicitly overrule or change this standard for school searches, but the decision does call into question whether such searches are permissible if they are only based upon a reasonable belief that the search will uncover evidence.

Consequently, while the legal standard presumably remains unchanged for school initiated searches of mobile devices, we suggest that compulsory searches based only upon a "reasonable belief" be undertaken with caution. Where school officials instead have "probable cause" that the search of a mobile device is going to uncover evidence of a violation of the law or the rules of the school, the search will likely be lawful. Moreover, we continue to emphasize that searches of mobile devices must be limited in scope (i.e. If there is a reasonable belief that there is an illegal picture on the phone, the administrator should not then also read e-mails or text messages unless he or she is authorized to do so). And critically, we also note that mobile devices may be searched without suspicion based upon valid consent (not coerced consent). Where law enforcement is already involved in a matter, we recommend deferring to law enforcement to conduct the search.

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.