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## THE IMPACT OF *SHUMAN V. PENN MANOR SCHOOL DISTRICT*: SCHOOL DISTRICTS MUST ACT “REASONABLY” WHEN SEIZING OR DETAINING STUDENTS BASED ON ALLEGATIONS OF WRONGDOING AGAINST THE STUDENT

What do police officers and school administrators have in common? They both can “seize” or detain individuals under “reasonable circumstances.” While the law regarding police seizures already is quite established, the Third Circuit Court of Appeals in *Shuman v. Penn Manor School District, et. al.*, 422 F.3d 141 (3d Cir. 2005), addressed the specific issue of what standard to apply in determining whether a seizure of a student by public school officials is appropriate under the Fourth Amendment of the United States Constitution.

In *Shuman*, a case handled by Sweet Stevens Katz & Williams LLP, an alleged incident of sexual misconduct took place between the Plaintiff, a student and a female student at Penn Manor High School. Three days after the sexual misconduct allegedly took place, the female student reported to the assistant principal that the Plaintiff touched her in a sexual manner without her consent. Thereafter, the assistant principal called the Plaintiff to his office and questioned him regarding the incident for ten to fifteen minutes. The Plaintiff denied any wrongdoing and named other students in close proximity to the alleged sexual misconduct as potential witnesses.

Following the meeting, the assistant principal instructed the Plaintiff to sit in a small conference room across the hallway from his office. The Plaintiff stayed in the conference room and did homework for the next several hours. During that time, the assistant principal re-interviewed the female accuser and other students whom the female accuser identified as witnesses. At approximately 11:30 a.m., the assistant principal escorted the Plaintiff to the cafeteria where the Plaintiff ate lunch alone. After lunch, the Plaintiff returned to the conference room where he stayed the remainder of the day. The Plaintiff only left the room one other time for a drink of water. At approximately 1:15 p.m., the assistant principal informed the Plaintiff that he was being suspended as punishment for inappropriate conduct. After being contacted by the school, Plaintiff’s mother picked him up from school at approximately 2:00 p.m.

The Plaintiff subsequently sued the school district on the theory that the district deprived him of his due process rights under the Fourth Amendment in connection with the school’s investigation into the incident. Specifically, the Plaintiff argued that the district unlawfully seized him, in violation of the Fourth Amendment, when the school district held him in an administrative office from approximately 10:15 a.m. until 2:00 p.m.

The first issue the court had to decide was whether the Plaintiff was actually “seized” within the meaning of the Fourth Amendment. It is well settled by the United States Supreme Court that a seizure occurs for Fourth Amendment purposes when “a reasonable person would have believed that he was not free to leave.” Since the uncontroverted testimony was that the Plaintiff was told by the assistant principal to remain in the conference room, the Plaintiff was not free to leave and was “seized” within the meaning of the Fourth Amendment.

The second issue the court had to decide was which standard to use to evaluate the seizure by the school officials. At the time of this decision, this was an open question of law. After extensive argument and briefing by both parties, the Third Circuit concluded that “reasonableness,” the standard already used in evaluating

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searches performed in schools, is also the appropriate benchmark to determine whether a seizure in a public school survives Fourth Amendment scrutiny. Courts have determined “reasonableness” in search cases by balancing the need to search against the invasion which the search entails.

In applying the “reasonableness” standard to the facts of the Shuman case, the Third Circuit upheld the decision of the trial court, which held that the seizure of Plaintiff for approximately three hours and forty-five minutes was reasonable in light of the circumstances, i.e., the serious nature of the accusations and the misconduct to which the Plaintiff had admitted.

The Third Circuit’s decision in Shuman has several important implications of which school districts should be aware when they “seize” or detain a student:

- An administrator/teacher who has instructed a student to stay in a certain room (not their regular classroom) probably has “seized” the student for Fourth Amendment purposes.
- An administrator/teacher must treat each “seizure” individually based on the specific circumstances surrounding that case.
- A “seizure” must be reasonable.
- A “seizure” cannot last indefinitely.

The more serious the alleged offense, the longer the “seizure” may be.

The following are procedures that school districts should follow when “seizing” a student, based upon allegations against that student:

- Perform a preliminary or brief investigation prior to formally detaining the accused student.
- Notify parents of the detention if it appears the investigation will not be completed in a short period of time. Note – a lengthy investigation still can be “timely.”
- After interviewing the accused student, depending on the facts and circumstances, consider permitting the student to return to class or simply send the student home for the rest of the day while the investigation is ongoing.

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.