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News For School Clients

Student Rights During Investigations Conducted With Law Enforcement

School administrators often seek the assistance of law enforcement officials when they suspect students of possessing weapons or drugs on school property. However, when law enforcement officers are assisting school officials with a student investigation, it can create ambiguities with regard to student rights because misconduct at school may also lead to criminal prosecution. Recently, the Wisconsin Court of Appeals issued a decision in *State v. Schloegel*, which examined two legal issues in the context of an investigation of a high school student that included a student interview and the search of the student's vehicle for illegal drugs. This case provides guidance for administrators when conducting such investigations with the assistance of law enforcement officers.

In *Schloegel*, school officials at Homestead High School were alerted by an anonymous informant that Schloegel was in possession of drugs on school grounds. Based on the informant's tip, two assistant principals at the school, with the assistance of the school liaison officer and a Mequon police officer, initiated an investigation and called Schloegel to the office. At that time, Schloegel consented to searches of his person and backpack, but no contraband was found. A search of his locker also revealed no contraband.

An assistant principal then asked Schloegel if he would mind if they looked in his car. Schloegel had received a student handbook at

the beginning of the year. The handbook included a parking form and a consent to search clause, stating that administrators had consent to search the vehicle when they had reasonable suspicion that the search would produce evidence of a violation of a law or school rule. An assistant principal told Schloegel that it was school policy to proceed next to search the vehicle. They then proceeded to the parking lot, and Schloegel opened the door of the vehicle at the assistant principal's request. The assistant principal searched the car and found marijuana, a pipe, Oxycontin, and cash.

The school liaison officer then asked Schloegel what the pills were, but he did not answer. She also asked Schloegel whether he had driven his vehicle to school that day. He answered that he had. She also asked if he had a prescription for the pills. Schloegel said that he did not. Finally, she asked if the pipe and marijuana were his, but no answer was apparent in the record. The liaison officer then placed Schloegel under arrest and took him to the police station, where he was read his *Miranda* rights.

Before his trial, Schloegel asked the court to suppress his statements made to the school liaison officer. Schloegel argued that the school liaison officer should have informed him of his *Miranda* rights before asking him questions and, by failing to do so, the statements should not be considered by the court. The court, however, refused this request.

The court noted that *Miranda* warnings are required only when a person is “in custody.” To determine whether someone was “in custody,” the court looks to whether the suspect was formally arrested or suffered a restraint or freedom of movement to the degree associated with a formal arrest. In this case, the court held that Schloegel was not in custody, based in part on the fact that the investigation was being conducted primarily by the assistant principal, rather than the school liaison officer or police officer. The relevant facts also showed that no more than fifteen minutes passed between the time Schloegel was summoned to the office and the discovery of drugs in the car; that the questions were asked in the parking lot and not a squad car or police station; and that Schloegel was not cuffed. Therefore, because he was not “in custody,” there was no *Miranda* violation.

Schloegel also asked the court to suppress the items discovered during the search of his car. The court also denied this request. First, the court noted that student handbooks that include consent to search clauses have been permitted as evidence to support reasonableness of a search. Then, the court applied the standard for searches on school grounds by public school officials from the U.S. Supreme Court in *New Jersey v. T.L.O.* According to the court, case law showed that school parking lots are “school grounds” subject to this test. Under *T.L.O.*, a school search is legal when it satisfies the following two-prong test: (1) the search must be justified at its inception, and (2) reasonably related in scope to the circumstances which justified the interference in the first place.

Applying the *T.L.O.* test, the court first concluded that the search of the vehicle was justified at its inception. School officials were put on alert by an informant that Schloegel was in possession of drugs. Further, Schloegel had a prior drug arrest record, and the school liaison officer knew Schloegel from that arrest. Thus, the decision to investigate and to search for the contraband was reasonable at its inception.

Applying the second *T.L.O.* test, the court concluded that the search of Schloegel’s car was reasonably related in scope to the search of contraband. The court noted that students who bring drugs to school have many places to stash them and that the clear goal of the search was to discover whether Schloegel had contraband at school. After searches of Schloegel’s person, backpack, and locker, the court found that the reasonable next step was to search Schloegel’s car. The court reasoned that school officials have the responsibility to keep students safe on school grounds, including parking lots. The court did not suppress any evidence in the criminal proceedings that was discovered during the school’s search.

This case provides guidance to school administrators regarding the role of law enforcement when conducting an investigation of student misconduct. Importantly, it identifies situations where students may not be entitled to *Miranda* warnings from law enforcement officials during a school investigation because they are not considered to be “in custody.” Further, it shows that vehicles on school parking lots will likely be regarded as “on school grounds” and that administrators will be permitted to search such vehicles, especially if notice is given in a student handbook.

If you have any questions regarding this topic, please call any of the following members of the Lathrop & Clark LLP School, Municipal, Labor and Employment Law Team.

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