

Are Student Cellphone Searches Unconstitutional?

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School administrators need to be careful about potentially infringing on a student's Fourth Amendment rights when searching a student's cellphone.

A [recent federal court decision out of the U.S. Court of Appeals for the 11th Circuit](#) found that a Georgia school district's search of a student cellphone was not a violation of clearly established Fourth Amendment law, so the administrators were protected from liability by qualified immunity.

The case is unique because it cites to [Riley v. California](#), a 2014 U.S. Supreme Court case finding that a warrantless search of the contents of a cellphone was unlawful under the Fourth Amendment because the quality and quantity of personal data accessible in today's cellphones implicates protected privacy interests. The search in *Riley* was conducted by police officers who had lawfully arrested the cellphone's owner. The Court clarified that, even though an arrestee has a diminished right to be free from searches, police must obtain a warrant in order to search a cellphone.

Students also have a diminished right to be free from searches by school officials. The Supreme Court has said that a search of a school student is constitutionally permissible when there are reasonable grounds for believing the search will uncover evidence that the student has broken the law or violated school rules. The search cannot be unlimited, however, and must be reasonably related to the object of the search and not excessively intrusive.

The 11th Circuit declined to extend the *Riley* rule from the criminal context to the school context. Rather than finding that the search of the student's cellphone was *per se* unreasonable, the court cautioned that the scope of a search of a student cellphone may need to be based on a compelling reason because of the information that could be revealed.

Courts in Pennsylvania have not analyzed a student cellphone search since 2006. In [that case](#), the U.S. District Court for the Eastern District of Pennsylvania found that the school's search of a student's phone to determine whether the student violated the school's cellphone policy was a permissible justification for starting a search. The scope of the search was ultimately found to be unreasonable because the school then used the phone to determine whether other students were violating school policies.

Under both the 11th Circuit and the Eastern District of Pennsylvania decisions, certain circumstances may justify at least a limited search of the contents of a student's cellphone in the school setting. Given the quantity and quality of data found on today's cellphones, however, administrators should proceed with caution when searching a phone without consent. An excessively intrusive search could violate the student's right of privacy under the Fourth Amendment and expose the district to liability. As the 11th Circuit held, the law is not clearly established in this area.

If you have any questions about how this case impacts your district, please any of the attorneys in the [Barley Snyder](#)

Education Practice Group.