



# DPS TRAINING BULLETIN

LEGAL BULLETIN NO. 126  
November 11, 1988

## SEARCH OF STUDENT BY SCHOOL OFFICIALS

Reference: Brent C. Shamberg  
v.  
State of Alaska

Alaska Court of Appeals  
Opinion No. 857  
P.2d  
October 14, 1988

### FACTS:

While in the high school library, a teacher observed Shamberg, who appeared to be under the influence of alcohol. The school's security officer contacted Shamberg and noticed that his face was flushed, his eyes were glassy, and he swayed and bounced into objects when he walked. The officer told Shamberg that he believed he had been drinking and wanted to know where he had gone for lunch. Shamberg was evasive with his answers and refused to surrender his car keys when the security officer asked for them. The assistant principal then became involved and informed Shamberg that they knew he had been drinking and they wanted to search his vehicle. Shamberg was handed a consent form and was told to sign it.

Shamberg's car was improperly parked in the school parking lot. The security officer and assistant principal searched Shamberg's vehicle. Two baggies containing a white powder were seized from the ashtray. Shamberg indicated that the baggies contained cocaine and subsequent chemical tests confirmed that it was cocaine.

At Shamberg's suppression hearing, the judge ruled that Shamberg had not freely and voluntarily given his consent to search his car.

### ISSUE:

Did school officials need a warrant or probable cause to search the student's car?

HELD: No.

### REASONING:

1. The search need only be reasonable.
2. When first observed by school officials, Shamberg was extremely intoxicated.
3. The evidence of improper parking, plus Shamberg's intoxication and evasive responses regarding his car, led school officials to the "common-sense conclusion" that Shamberg had been consuming or transporting alcohol or drugs in his car. School officials had a reasonable suspicion to search Shamberg for drugs or alcohol (emphasis added).

4. Students do have legitimate expectations of privacy, which must be balanced against "the substantial interest of teachers and administrators in maintaining discipline in the classroom and on school grounds."

NOTES:

The school officials were not acting as "police agents" in this case. The court applied the lesser standard of "reasonable suspicion" in this decision even though school officials are part of government.

Review of the following cases, wherein the United States Supreme Court and the Alaska Supreme Court have addressed similar issues, is recommended:

D.R.C. v. State (Legal Bulletin No. 58)--public employees, such as school teachers, are subject to constitutional constraints, but are not law-enforcement officers.

New Jersey v. T.L.O. (Legal Bulletin No. 90)--school officials act as representatives of the state, but are not required to obtain warrants nor to have "probable cause" to conduct a search; they must have a reasonable suspicion that the student is violating either the law or rules of the school.

NOTE TO SUBSCRIBERS TO THE ALASKA LEGAL BRIEF MANUAL:

Add this case to Section N on Page 11 of your Contents and to Section N-4 of Text. File Legal Bulletin No. 126 numerically under Section R of the manual.