

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO**

ANDREA EVANS by )  
Richard Evans, her Parent and/or )  
Guardian as Next Friend )  
441 Loop Road )  
Piketon, Ohio 45661 )

and )

DANNA RHINESMITH by )  
Sandra Stevens, her Parent and/or )  
Guardian as Next Friend )  
485 Circleview Drive )  
Waverly, Ohio 45690 )

and )

MICHELLE TOMLIN by )  
Treva Tomlin, her Parent and/or )  
Guardian as Next Friend )  
2765 Bobo Road )  
Beaver, Ohio 45613 )

and )

AMANDA BENSON by )  
Sheryl Benson, her Parent and/or )  
Guardian as Next Friend )  
816 George Hollow Road )  
Waverly, Ohio 45690 )

and )

ASHLEY SAMANIEGO by )  
Freda Carol Snively, her Parent and/or )  
Guardian as Next Friend )  
2195 Loys Run Road )  
Piketon, Ohio 45661 )

and )

Case Number: \_\_\_\_\_

Judge: \_\_\_\_\_

Magistrate Judge: \_\_\_\_\_

**COMPLAINT AND JURY DEMAND**  
Complaint for declarative and injunctive  
relief, damages, and attorneys fees and  
costs pursuant to 42 U.S.C. §1983 and  
42 U.S.C. §1988(b).

ISABELLE HOLLOWAY by )  
Jetta Vance, her Parent and/or )  
Guardian as Next Friend )  
1083 Higpen Road )  
Bainbridge, Ohio 45612 )

and )

BRITTANY HOFFER by )  
Barbara Hoffer, her Parent and/or )  
Guardian as Next Friend )  
126 Rob Beekman Hill Road )  
Piketon, Ohio 45661 )

and )

AMBER MONTGOMERY by )  
Lynette Montgomery, her Parent and/or )  
Guardian as Next Friend )  
512 Second Street )  
Piketon, Ohio 45661 )

Plaintiffs. )

-vs- )

PIKE COUNTY AREA JOINT )  
VOCATIONAL SCHOOL DISTRICT )  
175 Beaver Creek Road )  
Piketon, Ohio 45661 )

and )

STEPHEN E. MARTIN )  
In His Individual and Official Capacity )  
Vern Riffe Career Technology Center )  
175 Beaver Creek Road )  
Piketon, Ohio 45661 )

and )

TONI FOUT )  
In Her Individual and Official Capacity )  
Vern Riffe Career Technology Center )  
175 Beaver Creek Road )  
Piketon, Ohio 45661 )

and )  
 )  
 KEITH SMITH )  
 In His Individual and Official Capacity )  
 Vern Riffe Career Technology Center )  
 175 Beaver Creek Road )  
 Piketon, Ohio 45661 )  
 )  
 and )  
 )  
 CHERYL SHAW )  
 In His Individual and Official Capacity )  
 Vern Riffe Career Technology Center )  
 175 Beaver Creek Road )  
 Piketon, Ohio 45661 )  
 )  
 Defendants. )

Plaintiffs, through undersigned counsel, complain of Defendants and for cause of action show:

**INTRODUCTION**

1. This matter brought pursuant to 42 U.S.C. §1983 seeks declarative and injunctive relief for violations by the Defendants of Plaintiffs’ rights under the Fourth and Fifth Amendments to the United States Constitution, as incorporated by the Fourteenth Amendment; their rights under Sections 14 and 16, Article I, of the Ohio Constitution, and their rights under Ohio Revised Code Section 2933.32(B). This Complaint arises out of the coerced searches of the persons and clothing (“strip searches”) performed on more than twenty students, including Plaintiffs, by Defendants at the Vern Riffe Career Technology Center. The Defendants personally and through their agents and employees conducted these strip searches in response to an alleged theft of sixty dollars from one student and another alleged theft of a credit card, a thirty-five dollar gift card and a fifteen dollar gift card from a second student at the Vern Riffe Career Technology Center

and without any reasonable belief that any of the Plaintiffs were involved in either of these alleged thefts. These blanket strip searches violated the students' rights against unreasonable and warrantless search as protected by the Fourth and Fourteenth Amendments to the United States Constitution and by Section 14, Article I of the Ohio Constitution. In addition, the strip searches violated the students' rights to due process as protected by the Fifth and Fourteenth Amendments to the United States Constitution and by Section 16, Article I of the Ohio Constitution. In addition, the strip searches violated the students' rights and were illegal strip searches in violation of Ohio Revised Code Section 2933.32. This Complaint seeks damages for these constitutional and statutory violations.

### **PARTIES**

2. Plaintiffs Ashley Samaniego, Isabelle Holloway, Brittany Hoffer, Andrea Evans, Danna Rhinesmith, Michelle Tomlin, Amanda Benson, and Amber Montgomery are minors who bring this case through their parents, or step-parents, or legal guardians, Freda Carol Snively, Jetta Vance, Barbara Hoffer, Rick Evans, Sandra Stevens, Treva Tomlin, Sheryl Benson, and Lynette Montgomery respectively. All Plaintiffs are residents of Pike County, situated within the Southern District of Ohio.
3. Defendant Pike County Area Joint Vocational School District is a joint vocational school district and a political subdivision of the State of Ohio, which promulgates and promotes the unconstitutional policy and practice by which Plaintiffs were strip searched. It was at all times relevant to this action and still is located in Pike County, within the Southern District of Ohio.
4. Defendants Keith Smith, Toni Fout and Cheryl Shaw were teachers and/or administrators

for Vern Riffe Career Technology Center who ordered and/or participated in the strip searches on Plaintiffs. The Vern Riffe Career Technology Center is located in Pike County, within the Southern District of Ohio, and, upon information and belief, Defendants are, and at all times relevant hereto were, residents of Pike County, within the Southern District of Ohio. Defendants are sued in their official capacity for the purposes of obtaining declarative and injunctive relief and damages, and in their individual capacities with respect to claims for attorney's fees and damages.

5. Defendant Stephen E. Martin is the Superintendent of the Vern Riffe Career Technology Center who is the official responsible for the acts of the teachers and administrators of the Vern Riffe Career Technology Center and who, on information and belief, at all times relevant hereto was a resident of Pike County, within the Southern District of Ohio.

#### **JURISDICTION AND VENUE**

6. Jurisdiction is based on 42 U.S.C. § 1983, U.S. Const., Amend IV, 28 U.S.C. § 1331, and 28 U.S.C. § 2201 and on the supplemental jurisdiction of this Court to hear state law claims pursuant to 28 U.S.C. §1367(a).
7. This cause arose in Pike County, Ohio within the Southern District of Ohio, Eastern Division.
8. Venue is based on 28 U.S.C. § 1391(b).

#### **FACTUAL ALLEGATIONS**

9. On Friday, January 20, 2006, Plaintiffs Ashley Samaniego, Isabelle Holloway, Brittany Hoffer, Andrea Evans, Danna Rhinesmith, Michelle Tomlin, Amanda Benson, and Amber Montgomery were students at Vern Riffe Career Technology Center.

10. On the morning of Friday, January 20, 2006, Plaintiffs were in their Diversified Health Occupations 11 (DHO 11) lab class.
11. Approximately twenty students total were in attendance in the DHO 11 lab class.
12. During the same approximate time frame, two female students reported to a teacher and/or school administrator missing personal belongings. One student reported the loss of sixty dollars in cash. The second student reported a missing credit card, a thirty-five gift card, and a fifteen dollar gift card.
13. Upon hearing of the missing belongings, DHO 11 instructor Wendy Harper ordered Plaintiffs to take their seats and remain seated.
14. Ms. Harper then left the room to speak with Defendant Fout, instructor for Diversified Health Occupations 12 (DHO 12).
15. Defendants Smith, Shaw and Fout entered the DHO 11 lab class and alleged two students were victims of theft.
16. Students were ordered to sit straight in their seats and put their hands in full view of Defendants Smith, Shaw and Fout.
17. On information and belief, no investigation was performed by Defendants to substantiate whether the property was actually missing, nor were the police or students' parents called at this time.
18. One by one, Plaintiffs were ordered into the First Aid room, a room adjoining the DHO 11 lab classroom.
19. In the First Aid room, Plaintiffs were ordered by Defendants Smith and Shaw to empty their purses, take off their jackets and coats, remove their shoes and remove their socks.

20. As a result of the search in the First Aid room, none of the allegedly stolen items were discovered.
21. One by one, Plaintiffs were next taken to their school lockers by Defendants Smith and Shaw where their lockers were searched by Defendants Smith and Shaw.
22. None of the allegedly stolen items were discovered in the search of Plaintiffs' lockers.
23. One by one, Plaintiffs were next taken into a school restroom by Defendant Fout, where Plaintiffs were made to undo and take their pants and nurses' scrubs down to at least mid-thigh.
24. Plaintiffs were also made to undo their bras and shake them out during the search in the restroom by Defendant Fout.
25. As a result of the strip searches in the restroom, none of the allegedly stolen items were discovered.
26. One by one, Plaintiffs were next made to sit in Regular Room, a classroom where non-lab work takes place, following the final search by Defendant Fout.
27. Plaintiffs complied unwillingly with all of the ordered searches.
28. Plaintiffs were detained for approximately three hours causing them to miss lunch period, Activity period and English class.
29. The missing credit card was later found in the car of the student who had reported its theft.
30. The thirty-five dollar gift card, the fifteen dollar gift card and the sixty dollars cash were not recovered.

**First Cause of Action – Fourth Amendment Violations**  
(Defendants Pike County Area Joint Vocational School District,  
Martin, Smith, Fout, and Shaw)

31. Plaintiffs incorporate by reference all prior paragraphs as though repeated paragraph by paragraph and word for word herein.
32. Defendants Smith, Fout, and Shaw violated Plaintiffs' rights under the Fourth Amendment of the United States Constitution to remain free from unreasonable searches and seizures when they searched and detained Plaintiffs as described above.
33. Defendants did not have probable cause, reasonable suspicion, or for that matter any particularized suspicion that Plaintiffs Ashley Samaniego, Isabelle Holloway, Brittany Hoffer, Andrea Evans, Danna Rhinesmith, Michelle Tomlin, and Amanda Benson individually or collectively had taken any of the items that had been alleged as stolen. Nor did Defendants have any evidence or reasonable suspicion or particularized belief to support the assumption that a search of each Plaintiff's possessions, locker, and person would result in the recovery of the missing items.
34. The searches were not reasonable in proportion to the circumstances. Defendants had no evidence pointing to Plaintiffs as suspects in the alleged thefts, nor did Defendants have any basis to detain Plaintiffs and search their persons and possessions. Defendants neither had nor sought to obtain warrants.
35. Furthermore, the searches were excessively intrusive in light of the age and sex of the students. When minor students are compelled to attend school, the school's personnel function *in loco parentis* and are responsible for the protection of those students. Defendants acted with flagrant disregard of Plaintiffs' wellbeing when it conducted the illegal search described herein.

36. During all times relevant to this action, the Vern Riffe Career Technology Center, its teachers, and its administrators, developed and maintained policies, customs, or practices exhibiting deliberate indifference to the constitutional rights of the students, which caused the violation of Plaintiffs' Fourth Amendment rights.
37. Contrary to 42 U.S.C. § 1983, Defendants Smith, Fout, and Shaw violated Plaintiffs' rights under the Fourth Amendment to the United States Constitution to be free from unreasonable searches and seizures.
38. As a proximate cause of Defendants' actions, Plaintiffs suffered injuries, including, but not limited to, humiliation and embarrassment, emotional distress, fear of school authorities, violation of their bodies, and violation of their civil rights and liberties.

**Second Cause of Action – Fifth Amendment Violations**  
(Defendants Pike County Area Joint Vocational School District,  
Martin, Smith, Fout, Shaw)

39. Plaintiffs incorporate by reference all previous averments as though repeated paragraph by paragraph and word for word herein.
40. Defendants Smith, Fout, and Shaw violated Plaintiffs' guaranteed right of due process under the Fifth Amendment of the United States Constitution, when they detained and searched Plaintiffs as described above.
41. At no time did Defendants provide any of the Plaintiffs with proof of any accusation against her, allow her to dispute the accusation, or allow her to object to the unreasonable detention and searches described above.
42. During all times relevant to this action, Vern Riffe Career Technology Center developed and maintained policies, customs, or practices exhibiting deliberate indifference to the

constitutional rights of the students, which caused the violation of Plaintiffs' Due Process rights.

43. Contrary to 42 U.S.C. § 1983, Defendants Smith, Fout, and Shaw denied Plaintiffs their due process by failing to comply with school policy.
44. As a proximate cause of Defendants' actions, Plaintiffs suffered injuries, including, but not limited to, humiliation and embarrassment, emotional distress, fear of school authorities, violation of their bodies, and violation of their civil rights and liberties.

**Third Cause of Action – Violation of the Ohio Constitution and Ohio Revised Code**  
(Defendants Pike County Area Joint Vocational School District,  
Martin, Smith, Fout, Shaw)

45. Plaintiffs incorporate by reference all previous averments as though repeated paragraph by paragraph and word for word herein.
46. The actions of Defendants as described herein violated Plaintiffs' rights to be free from unreasonable searches and seizures as guaranteed by Section 14, Article I of the Ohio Constitution.
47. The actions of Defendants as described herein violated Plaintiffs' rights to the protections of due process as guaranteed by Section 16, Article I of the Ohio Constitution.
48. The actions of Defendants as described herein constituted an unlawful strip search in violation of Ohio Revised Code Section 2933.32.
49. As a proximate cause of Defendants' actions, Plaintiffs suffered injuries, including, but not limited to, humiliation and embarrassment, emotional distress, fear of school authorities, violation of their bodies, and violation of their civil rights and liberties.

**PRAYER FOR RELIEF**

WHEREFORE, having fully stated their claim, Plaintiffs pray that this honorable Court enter Judgment against Defendants as follows:

- A. Against all Defendants, a declaration that the policy and practice of engaging in unreasonable detention of students, searches of their persons and possessions, and especially strip searches violates the Fourth Amendment to the United States Constitution and Section 14, Article I of the Ohio Constitution;
- B. Against all Defendants, \$100,000 per student in actual damages for harm suffered and \$500,000 per student in punitive damages for disregard of Plaintiffs' rights under the Fourth Amendment to the United States Constitution and Section 14, Article I of the Ohio Constitution;
- C. Against all Defendants, a declaration that the practice of detaining and searching students without due process violates the Fifth Amendment to the United States Constitution and Section 16, Article I of the Ohio Constitution;
- D. Against all Defendants, \$100,000 per student in actual damages for harm suffered and \$500,000 per student in punitive damages for disregard of Plaintiffs' rights under the Fifth Amendment to the United States Constitution and Section 16, Article I of the Ohio Constitution;
- E. Against all Defendants, a declaration that the practice of engaging in a warrantless, suspicionless strip search of students violates Ohio Revised Code Section 2933.32;
- F. Against all Defendants, \$100,000 per student in actual damages for harm suffered and \$500,000 per student in punitive damages for disregard of Plaintiffs' rights under Ohio Revised Code Section 2933.32;

- G. Against all of the Defendants and each of them, jointly and severally, reasonable attorney fees and costs of suit pursuant to 42 U.S.C. §1988 and Fed.R.Civ.P. 54; and
- H. Such other relief, be it legal or equitable, as this Court shall, in the sound exercise of its discretion, deem just.

Respectfully submitted,

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