



November 27, 2007

Dr. David Allen, Principal
William Mason High School
6100 Mason-Montgomery Road
Mason, Ohio 45040

SENT VIA REGULAR U.S. MAIL & VIA FAX TO: 513/336-6823

RE: Seizure of student cell phones to read text messages

Dear Dr. Allen:

My organization, the American Civil Liberties Union (ACLU) of Ohio Foundation, is in contact with parents of students at William Mason High School regarding a troubling practice and policy undertaken by the administration at your school.

These parents allege school staff, including perhaps yourself, seize student cell phones for the express purpose of reading text messages in order to discover the behavior and actions of students while not on school property and outside of regular school hours. More specifically, it appears school staff is concerned with activities students engage in at private weekend parties. If these allegations are true, we share the parents' concern.

There is no question the Fourth Amendment to the U.S. Constitution prohibits unreasonable searches and seizures. Public school students as well as adults are protected by that prohibition. Confiscating cell phones for no other reason than to review communications to and from students, absent any larger pedagogical reason for the confiscations or any particularized suspicion of wrongdoing that affects the school, is an intrusion into the private life of students that must end immediately.

No government entity is permitted to go on a "fishing expedition" to obtain evidence of wrongdoing. This is true even if a student "consents" by handing over his/her cell phone for such a purpose. Pressuring students to hand over property to which the school has no legal right is an invalid exercise, particularly if done under a threat the school will discipline the student if he/she does not comply with the request.

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A MEMBER OF
COMMUNITY
SHARES



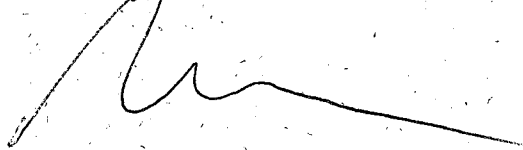
This alleged policy of seizing cell phones to search for “inappropriate” or “incriminating” text messages also violates students’ First Amendment free speech rights. Communication between one student and another is protected speech and students will be reluctant to communicate with other students if their messages can be seized by school officials bent on discovering something illicit. Schools are prohibited from interfering with student speech unless such speech poses an immediate threat of significant disruption to the learning environment. There is no credible claim that a private text message sent to or received by students and having nothing to do with a school sponsored activity, poses the kind of immediate and direct threat to the school or its mission the First Amendment requires.”

Again, our position is this policy and practice is undeniably unconstitutional and must cease. Should my office receive any further complaints from Mason High School students or their parents regarding this issue, I will have no alternative but to recommend the matter to the ACLU of Ohio Foundation Board of Directors for immediate litigation.

However, I am confident the Mason City School District has no interest in continuing to violate the rights of its students and I sincerely hope and fully expect no further communication from my office on this matter will be necessary.

Should you have any questions or concerns regarding this matter and our involvement, please do not hesitate to contact me directly at 216/472-2220.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeffrey M. Gamsó". The signature is fluid and cursive, starting with a large initial "J" and ending with a long horizontal stroke.

Jeffrey M. Gamsó
Legal Director

cc: Kevin Wise, President, Mason City School District Board of Education