



# CLIENT NEWS BRIEF

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## UNITED STATES SUPREME COURT VACATES CONTROVERSIAL NINTH CIRCUIT DECISION REGARDING INTERVIEWS OF STUDENTS WHO ARE SUSPECTED VICTIMS OF CHILD ABUSE

The United States Supreme Court recently issued its opinion in Camreta v. Greene (“Camreta”) (2011) \_\_\_ U.S. \_\_\_. The court’s opinion vacates a highly controversial decision by the Ninth Circuit that restricted the ability of law enforcement and child protective services (“CPS”) personnel to interview students who are the suspected victims of child abuse while those students are on school grounds. In essence, the result of the Supreme Court’s opinion is to return the state of the law on this issue to the status quo before the lower court’s decision.

In Camreta, the Ninth Circuit Court of Appeals held that the interview at school of a minor student, by a sheriff deputy and CPS worker regarding suspected child abuse, was unlawful and violated the Fourth Amendment. The rule that the Ninth Circuit sought to establish in its decision was that such interviews were prohibited unless exigent circumstances exist, or law enforcement and/or CPS officials have a warrant, court order, or parental consent authorizing the interview of the student. The court emphasized that the interview of the student lasted for two hours, without notice to the parents.

The Ninth Circuit’s decision caused significant concern in the education, law enforcement and CPS communities because it directly conflicted with long-standing legal consensus and practice in California and other states within the Ninth Circuit’s jurisdiction. Specifically in California, existing Attorney General opinions call for school officials to cooperate with, and not obstruct, law enforcement officials who request to interview students on campus. Further, Education Code section 48906 allows for the release of a student to law enforcement when the student is a suspected victim of child abuse. Because the Camreta decision conflicted with these existing legal authorities, there was some concern that the Ninth Circuit’s decision could lead to a basis for liability against school districts if school personnel consented to, or facilitated, interviews of students by law enforcement or CPS workers while the students were at school.

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The Supreme Court did not specifically address or determine whether or not the Fourth Amendment rights of the student or parent were violated by the student's interview on school grounds. Rather, the court explained that the issue had become moot because the student no longer lived in Oregon and was graduating from high school in Florida in just a few short months. As such, the student was not at risk of any future harm of the kind suffered in the lawsuit. In the interest of preventing the Ninth Circuit's decision from spawning any adverse legal consequences, the court vacated the Ninth Circuit's decision holding that the defendants' conduct violated the Fourth Amendment. Thus, California school districts may continue to abide by the relevant Education Code provisions and long-standing California Attorney General opinions that call for school districts to cooperate with law enforcement officials, including in the context of student interviews regarding suspected child abuse.

There remains the chance that future litigation regarding this same issue will be filed against a school district. Therefore, school districts may wish to contact their legal counsel to discuss how the court's opinion affects practices and procedures for student interviews in the context of child abuse investigations. Further, school districts should consider collaboration with local law enforcement and CPS to establish practices and procedures that serve the interest of protecting suspected victims of child abuse while simultaneously insulating the respective public agencies from potential liability.

If you have any questions, please do not hesitate to contact one of our [eight offices](#) located statewide or consult our [website](#).

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