

# Court Rules Academic Integrity Measures Violated Student's Privacy Rights

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Attempts to ensure academic integrity while delivering instruction remotely were an ongoing concern during the 2019-2020 academic school year when many educational providers implemented remote learning on a grand scale. One such popular strategy included requiring students to appear on camera during testing. In a recent Ohio federal decision, however, the district court struck one university's mandatory video room scan for test-taking students, finding that it violated a student's Fourth Amendment privacy rights.

The Fourth Amendment protects the privacy rights of individuals against searches of their persons, homes, papers, or effects without probable cause. Generally, Fourth Amendment protections have been applied to searches by school officials, with some accommodations for searches necessary to maintain the school environment or searches which serve the "special needs" of the government. Courts have furthermore distinguished between higher education matters – involving adult students – from those involving unemancipated minors, who are generally considered to have lesser privacy interests while placed in the temporary custody of their teachers.

In *Ogletree v. Cleveland State Univ.*, N.D. Ohio No. 1:21-cv-00500, 2022 U.S. Dist. LEXIS 150513 (Aug. 22, 2022), a student at Cleveland State University, Aaron Ogletree, challenged the University's requirement that remote students show the interior of their home to an exam proctor over webcam before taking an exam. As part of Cleveland State's remote learning protocols, individual professors could require that students use their computer webcams to scan their rooms before taking exams to demonstrate that they were alone before taking an exam. These scans were visible to other students, and recordings of the sessions were stored remotely through a third-party vendor. Due to COVID-19 protocols, Ogletree could not attend classes in person and was not informed of the room scan requirement until two hours before his exam.

In striking this practice as unconstitutional, the court recognized that students "have a subjective expectation of privacy in their houses, especially in their bedrooms, and society recognizes that expectation as reasonable." While the court acknowledged that Cleveland State has an interest in academic integrity, the court ultimately held that Ogletree's right to privacy "outweighs Cleveland State's interests in scanning his room." The court further noted that "[a]lthough

the intrusion at issue might not strike a person as especially problematic, particularly in the nascent Zoom era, the core protection afforded to the home, the lack of options, inconsistency in application of the policy, and short notice of the scan weigh in Plaintiff's favor." Thus, Judge Calabrese concluded that Cleveland State's use of room scans was unreasonable under the Fourth Amendment and granted summary judgment in Ogletree's favor.

This case presents one of the first of many likely suits resulting from the widespread use of cameras and other technology in accommodating remote work and education. As a result of the court's ruling, counsel for Cleveland State and Ogletree were instructed to confer on the next possible steps, including the potential entry of a declaratory judgment or injunction limiting the scope of future remote learning security measures by Cleveland State.

If you have any questions regarding privacy concerns for government entities or questions regarding civil rights and employment, please contact one of our Education Law or Governmental Liability Practice Group attorneys.