Second Circuit Upholds the Constitutionality of Vaccination Mandates in Public Schools

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In *Phillips v. City of New York*, the United States Court of Appeals for the Second Circuit considered a challenge to New York State's requirement that students receive vaccinations in order to be allowed to attend public school. This challenge came after a number of children were excluded from school because they had not been vaccinated.

New York's law, which mandates that students receive vaccinations for certain illnesses, includes two exemptions. First, students are eligible for an exemption "[i]f any physician licensed to practice medicine in [New York] certifies that such immunization may be detrimental to a child's health." Second, an exemption is allowed for "children whose parent, parents, or guardian hold genuine and sincere religious beliefs which are contrary to" the vaccine mandate. A number of parents challenged the vaccination mandate, as well as the regulation authorizing temporary exclusion of exempted schoolchildren during a disease outbreak, claiming that they were unconstitutional.

After their claims were denied in the District Court, the parents filed an appeal. First, the parents argued that the challenged law constituted a violation of substantive due process. The Second Circuit found that the vaccination mandate was within the State's police power, and as such, the claim was dismissed. Second, the parents argued that the regulation excluding students who have not received vaccinations from school in the event of an outbreak was a violation of the Free Exercise Clause, which protects citizens' right to practice their religion. The Court found that the Free Exercise Clause was not violated, as the parents' right to exercise their religion did not include a right "to expose the community or the child to communicable disease or the latter to ill health or death." Finally, the parents argued that the vaccination mandate violated their rights under the Equal Protection Clause, alleging that the

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mandate was discriminatory against Catholics. The Court rejected this argument, because some Catholics had received religious exemptions.

What You Need To Know

As the Supreme Court has held previously, states may lawfully require that students receive vaccinations in order to receive permission to attend public school. This decision affirms that such a requirement does not violate the Free Exercise Clause of the First Amendment. The Plaintiffs in *Phillips* petitioned for writ of certiorari to the Supreme Court, so we will keep you posted on further developments.

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