



Prior to the senior prom hosted by the applicants' school, the principal announced the administration of a mandatory breathalyzer would be a pre-condition of entry to the event. The principal stated that the measure was a last resort to counteract a culture of alcohol consumption at the school's dances and proms.

The possibility of using a breathalyzer test as a pre-condition of entry to the prom had been raised by the principal as a topic of discussion on a few occasions. The principal brought the issue to the attention of the Student Affairs Council in November 2013. The principal also brought the issue before the School Council, which consists of elected parent representatives, elected staff representatives, a student representative and the principal, in January 2014 and April 2014. On April 29, 2014, two days before tickets went on sale for the prom, the principal informed the School Council that he had decided to bring in the use of breathalyzer testing at the 2014 prom. He said that no student would be singled out and that all students would have to comply. He said this decision was based on the overall health and safety of students, the continued problem of alcohol consumption and the contract with the venue hosting the prom which specifies that a zero-tolerance alcohol policy would be in effect.

The reaction of the Student Affairs Council was that it was "insulted by and opposed to Mr. Felsen's decision" and that the students should have been consulted. On April 30, 2014, the principal emailed the parents of grade 12 students to announce the decision and said that "many" neighbouring and TDSB schools were starting to use breathalyzers at the prom. He later conceded that only Malvern Collegiate was doing so out of 100 high schools in the TDSB. Some parents responded to his communications and expressed concern about the new policy. The students convened a meeting to discuss the plan to use the breathalyzer and student opposition was widely shared.

The applicants were members of the student council executive. They met with the principal to voice their opposition to the policy. The principal maintained his position. The principal indicated that a mandatory breathalyzer would serve as a precondition to entry at future school dances and proms.