
In a Case Involving Tragic Facts, Appellate Court Upholds School District and Employees' Immunity from Liability for Student Off-Campus, Unsupervised Injuries

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A California Court of Appeal has held that a school district and its employees are not responsible for the safety of a student when the student is not on school property, unless the student is involved in activities undertaken or supervised by the school district. (*LeRoy v. Yarboi* (Oct. 27, 2021, E072951) __ Cal.App.5th __ [2021 WL 5323329].) In reaching its decision, the court interpreted Education Code section 44808 to limit a school district's liability for after-hours, off-campus activities, and reasoned that courts may only impose liability for off-campus injuries when the student is involved in activities supervised or undertaken by the school.

Background

In March of 2015, a teenage student at Ayala High School in Chino, California, reported to school administrators that he was being bullied. The assistant principal referred the student to the school psychologist and to Chino Human Services. Additionally, the assistant principal requested that both the bully and the student sign a "No Contact Contract" agreeing not to contact each other in any way, which both students signed.

The school year ended on June 10, 2015. Two days later, on June 12, 2015, the student wrote a suicide note and ingested a fatal amount of medication. The student's parents sued the school district, alleging the District negligently failed to address the student's bullying complaints and should be liable for the student's suicide. Specifically, the parents filed a negligence and a Title IX claim. The District moved for summary judgment, which was granted. The trial court held that the negligence claim failed because the District and its employees did not breach any duty owed to the student and were immune from liability under Education Code section 44808. Additionally, the Title IX claim failed because the District did not act with deliberate indifference.

The student's parents appealed the trial court's decision on two related arguments. First, they argued that the District was vicariously liable for the student's suicide under Government Code section 815.2, which provides that the District is liable for the negligent acts of an employee unless the employee is immune from liability. Second, they argued that the school administrators were personally liable under Government Code section 820, which provides that "a public employee is liable for injury caused by his act or omission to the same extent as a private person." The District contended

that even if they breached a duty owed to the student and it was the proximate cause of the student's injuries, they were immune from liability under Education Code section 44808.

Appellate Court Decision

On appeal, the court concluded that the District and its employees were statutorily immune from liability because the student committed suicide during summer break, while he was off-campus, and not under the supervision of the District or any District employee.

In reaching its ruling, the court distinguished an earlier Supreme Court decision, *Hoyem v. Manhattan Beach City School District* (1978) 22 Cal.3d 508, relied upon by the plaintiff parents, which held that a school district was not immune from liability under Education Code section 44808 even though the student in that case sustained injuries when he was hit by a motorcycle after leaving school premises without permission. The appellate court acknowledged that some language from *Hoyem* may suggest that school districts and their employees may be liable for student injuries sustained off-campus and after school. However, the court explained that every court since *Hoyem* has interpreted Education Code section 44808 to provide that school districts are not responsible for the safety of students outside the school's premises, unless there is a specific undertaking by the school district and direct supervision by a district employee.

Takeaways

School districts and their employees are immune from liability when a student is injured while not on school property, unless the student is involved in activities undertaken or supervised by the school district.

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