



Iowa General Assembly

2013 Legal Updates

Legislative Services Agency – Legal Services Division

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SCHOOL DISTRICT LIABILITY FOR INJURIES OUTSIDE OF SCHOOL HOURS AND OFF SCHOOL GROUNDS

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Mitchell v. Cedar Rapids Community School District
No. 12-0794

http://www.iowacourts.gov/Supreme_Court/Recent_Opinions/20130621/12-0794.pdf

Background. D.E. was a fourteen-year-old ninth-grade special education student at Cedar Rapids Community School District's Kennedy High School. She had an IQ of 67 and functioned on a third grade level. She was rarely without direct adult supervision, although she was capable of independently performing daily living skills. D.E. was presumed by school personnel to be in a relationship with M.F., a nineteen-year-old twelfth-grade special education student. One of the school district's special education teachers had witnessed them kissing, and had concerns that the two were or might become sexually active. D.E. asked for and received permission from her mother to go to a friend's house after school, which was atypical behavior for her. D.E. skipped her last period class and met her friend and M.F. in the school parking lot. From there, D.E. and M.F. eventually made their way to the house of V.M., a tenth-grade special education student. There, M.F. raped D.E. By then, the school day had ended. D.E.'s mother did not discover D.E. was missing until she received a call after the school day had ended from someone who encountered D.E. and M.F. on their way to V.M.'s house. D.E.'s mother eventually tracked down D.E. and M.F. after receiving a call from them. D.E. did not disclose the rape until the following year. M.F. pled guilty to sex abuse in the third degree.

The school district had a computerized system for recording unexcused absences and notifying parents by phone. The notifications take place after the school day. D.E.'s absence was recorded in the system. The school district's special education personnel would often take additional discretionary measures when one of their students was missing, but there is no evidence they did so in this case. There were no special requirements regarding absences in D.E.'s Individualized Education Plan (IEP). D.E.'s mother sued the school district for negligence, alleging various breaches of a duty of reasonable care, including failure to adequately supervise D.E., failure to timely notify D.E.'s mother or take other appropriate action upon discovering her absence, and failure to maintain adequate monitoring and security measures to prevent special education students from leaving school without permission. The jury returned a verdict for D.E., awarding \$500,000 in damages and apportioning 70 percent fault to the school district and 30 percent to D.E. The school district made various procedural motions at trial asserting that it did not owe D.E. a duty of care, that D.E.'s injuries were outside the scope of its liability, and that its failure to call the police could not have been a cause in fact of D.E.'s injuries and thus should not have been submitted to the jury as a specification of negligence. The district court ruled for D.E. on various substantive and procedural grounds. The school district appealed the district court's rulings on those motions.

Issues on Appeal.

1. Whether the district court erred in denying the school district's motions at trial because the harm caused to D.E. was beyond the school district's scope of liability as a matter of law.
2. Whether a school district owes a duty to protect students from a third party outside the school day, off school grounds, and not during a school activity.
3. Whether the district court erred in including the school district's failure to call the police when D.E. went missing among the specifications of negligence submitted to the jury.

Arguments and Holding.

Scope of Liability. In a 5-2 majority decision, the Iowa Supreme Court (Court) ruled that there was sufficient evidence presented at trial to submit the question of whether the school district was liable for D.E.'s injuries to the jury. The Court rejected the school district's argument that because D.E. was raped outside of school grounds and after school hours, the school district was not as a matter of law liable for the harm she suffered. The Court stated the principle that "an actor's liability is limited to the physical harms that result from the risks that make an actor's conduct tortious." The Court also accepted the general rule that a school's "duty is only applicable to risks arising while a student is at school or otherwise engaged in school activities." However, the Court drew a distinction for "risks arising at school but materializing at some later time." While the harm D.E. suffered was ultimately caused by a third party, M.F., the Court held that the school district could still be found liable because the kind of harm she suffered was foreseeable by the school district and could have been prevented with proper precautions. The Court found that such determinations are ultimately best made by the jury, which found for D.E. on this issue. The Court also rejected the school district's arguments that D.E. was no more likely to be raped by leaving school early than if she had remained at school until the end of the day. Given D.E.'s low level of functioning, her known relationship with M.F., and the minimal response by the school district to D.E.'s unexcused absence, the Court found sufficient grounds for the question of the school district's liability to be submitted to the jury.

The Court did not rule on a related argument by the school district that the school district's conduct was not a factual cause of the harm caused to D.E. The Court held on procedural grounds that the school district had failed at the trial level to properly preserve the issue for appeal. The Court rejected the school district's argument that its discussion of related issues at trial were sufficient to preserve the question of factual causation for later review.

Duty of Protection. The Court also did not rule on the question of whether a school district owes a duty to protect students from a third party outside the school day, off school grounds, and not during a school activity. The Court held on procedural grounds that the school district had failed at the trial level to properly preserve the issue for appeal. The Court rejected the school district's argument that its discussion of related issues at trial were sufficient to preserve the question of duty for later review.

Failure to Contact Police. The Court rejected the school district's argument that the district court erred in including the school district's failure to call the police when D.E. went missing among the specifications of negligence submitted to the jury. The Court held that the school district's objection to the submission at the trial level was vague and that there was sufficient evidence to submit the matter to the jury.

Concurrence. Chief Justice Cady concurred in the result of the majority's ruling, but on different grounds. He accepted the school district's argument that "a school normally is not responsible for harm to students that occurs after school hours and after the students have left the school property." However, he found that the school district failed to deny at trial the assertion by D.E.'s mother that it owed a duty to notify her of her daughter's unexcused absence before the school day concluded. That issue was then left to the jury, which returned a verdict against the school district. Because the school district had failed to respond at trial to the question of whether it owed a duty during the school day, it could not argue the question on appeal.

Dissent. Justice Waterman filed a dissent, in which Justice Mansfield joined, concluding that he would have ruled that the school district's "tangential role in [D.E.'s] sexual assault by another student after school hours off campus is too attenuated to support liability." He argued that the school district should not be found liable given the facts leading up to D.E.'s assault, noting that she "skipped her last class," "lied to her mother," "willingly accompanied" M.F. off campus, and "joined him inside [the] garage where the sexual assault occurred." Given these and other facts on the record indicating D.E. intended to have sex with M.F., he concluded that "her intended liaison with M.F. was likely to occur somewhere, sometime whether or not she skipped her last class," and therefore the school district could not be held liable for the assault. He also noted that D.E.'s IEP did not include any special requirements relating to attendance or parental notification, and therefore the school district would have likely violated federal law relating to special education if it had treated her any differently from other students when she missed a class. He discussed case law from other jurisdictions at some length, concluding that "the great weight of authority holds as a matter of law that schools are not liable for assaults occurring off campus after school hours and outside of school activities," and finding no reason to deviate from that standard. He also argued as a matter of public policy "that to impose liability on schools for crimes occurring when a troubled student skips school would result in higher security costs that divert resources from ... education," and that imposing the parental notification requirements D.E.'s mother argued for at trial would impose an "unrealistic burden" on teachers. He did note that the majority's ruling will allow schools to argue the question of whether a school district owes a duty to protect students from a third party outside the school day, off school grounds, and not during a school activity in future cases.

Impact and Applicability on Iowa Law. This case expands the scope of tort liability for Iowa schools. Schools have generally not been held liable for injuries occurring off school grounds and outside of school hours. No prior cases in Iowa have found a school liable under such circumstances. In this case, the Court accepted the general rule that a school's duty of care "is only applicable to risks arising while a student is at school or otherwise engaged in school activities." However, the Court established an exception for liability "risks arising at school but materializing at some later time." The Court did not define the limits of that exception, which will have to be decided in future cases, but the facts of this case

establish one example. The school district's failure to respond adequately to a special education student's unexcused absence during the school day made it liable for her assault outside of school grounds and after the school day had concluded. Because the school district in this case failed to preserve certain arguments for appeal, schools in future cases may still be able to argue that, as a matter of law, they owe no duty to prevent injuries occurring off school grounds and outside of school hours.

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