

Student Injury Case: Did the Governmental Immunity Defense Just Get Weaker?

Education Law Notes

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Predictable horseplay and a metal locker with an exposed, jagged and rusty edge may be enough evidence for a jury to conclude that school officials had a “clear and unequivocal duty to act immediately to prevent harm” to students. This is what the Connecticut Supreme Court has decided in the recent, precedent-setting decision of *Haynes v. City of Middletown*, SC 19175 (November 4, 2014). In this case, a high school student suffered a cut to his arm when another student pushed him into a damaged locker while the two of them were fooling around in an unsupervised locker room after gym class. The locker had been in a state of disrepair for many months and the school was aware that horseplay was an ongoing problem.

In its defense, the City asserted governmental immunity— that it was not liable for any negligent acts or omissions that required the exercise of judgment or discretion. Meanwhile, the plaintiff argued that the “identifiable person/imminent harm” exception to the governmental immunity defense applied to this case. This exception has three parts: imminent harm, an identifiable victim, and a public official whose conduct will likely result in harm to the victim. The dispositive issue for the Court was the imminent harm piece. Previous case law had interpreted “imminent” to mean that “the condition that created the risk of harm was only temporary and the risk significant and foreseeable.” The *Haynes* case is significant because it rejects the element of duration in consideration of whether a harm is “imminent.” Instead of the duration of the risk, the Court explicitly states that the focus should be “on the *magnitude of the risk* that the condition created.” In overturning the prior standard established by case law, the Court concluded:

“[T]he proper standard for determining whether a harm was imminent is whether it was apparent to the municipal defendant that the dangerous condition was so likely to cause harm that the defendant had a clear and unequivocal duty to act immediately to prevent the harm.”

With this decision, the Court has effectively expanded the imminent harm/identifiable victim exception to the defense of governmental immunity. This, in turn, potentially exposes school districts and municipalities to greater liability in personal injury cases. The *Haynes* case has been remanded for a new trial, so we do not yet know what impact this new standard will have on the actual case. Meanwhile, although Justice Eveleigh aptly indicated in his concurring opinion that the law on this exception to liability is “to put it mildly, less than clear,” school districts and municipalities should be cognizant of the apparent erosion of the governmental immunity defense to liability.

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