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RECENT CALIFORNIA CASE: PUBLIC SCHOOL HELD LIABLE FOR WRONGFUL DEATH OF STUDENTS HIT BY CAR IN STUDENT PICK-UP AREA

In a recent California case, a public school was held liable for the wrongful death of two students who were struck by a car while waiting to get picked up after school in a student pick-up area (*Curiel v. Centralia Elementary School* (2004) Orange County Superior Court, Case No. 03CC02454). In a nutshell, this case stands for the proposition that a public school (be it a traditional public school or a charter school) can be held liable when it notices (be it actual or constructive notice) a dangerous condition and does not install safeguards and/or warnings to protect students against the danger.

In the *Centralia* Case a negligent driver drove up over a curb and struck two schoolchildren on the sidewalk along the perimeter of a public school in a student pick-up area. The two schoolchildren were students of the school and had just gotten out of school for the day and were waiting to be picked up by their parents when the driver struck them. The jury verdict found total damages of \$1,237,600. The school was found to be 15% at fault, while the negligent driver was found to be 85% at fault. As such, the school was liable for \$185,640 worth of damages (\$92,820 per victim).

Referring to prior case law, the Court found a school district has a heightened duty to make schools safe because of the special relationship that exists between a school district and its students who are on campus for a school-related function. It is highly likely this duty also applies to charter schools.

In making its decision, the Court relied upon California Government Code Section 835 which states:

“... a public entity is liable for injury caused by a dangerous condition of its property if the plaintiff establishes that the property was in a dangerous condition at the time of the injury, that the injury was proximately caused by the dangerous condition, that the dangerous condition created a reasonable foreseeable risk of the kind of injury which was incurred, and either: (a) A negligent or wrongful act or omission of an employee of the public entity within the scope of his employment created the dangerous condition; or (b) The public entity had actual or constructive notice of the dangerous condition under Section 835.2 a sufficient time prior to the injury to have taken measures to protect against the dangerous condition.”

As a result of this case, charter schools have yet another reason to be proactive about maintaining safe student pick-up areas and constantly evaluating the safety of such

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activities as well as monitoring other dangerous conditions on school property. Charter Schools are encouraged to contact their risk managers and insurance carriers to determine what steps can be taken to prevent injuries in student drop off/pick up zones and other areas on school grounds that may present hazardous conditions.

If you should have any questions regarding this update, please contact Paul Minney at (pminney@smymlaw.com) or Adam Susz at (asusz@smymlaw.com) at the Law Offices of Spector, Middleton, Young & Minney, LLP at (916) 646-1400.

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