

Massachusetts Supreme Judicial Court Rules Universities May Have Limited Liability When a Student Commits Suicide

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Education Law Alert

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In a closely watched case, the Massachusetts Supreme Judicial Court ruled on May 7, 2018 that, in certain limited circumstances universities, may be liable for failing to prevent a student's suicide. The court nevertheless upheld the decision clearing Massachusetts Institute of Technology (MIT) of wrongdoing in the suicide death of a 25-year-old graduate student. Eighteen universities, including Harvard, Boston College and Boston University, submitted an amicus brief in support of MIT's position.

In *Nguyen v. MIT*, the court noted that universities "clearly are not bystanders or strangers in regards to their students," however universities are not functioning "*in loco parentis*" for the students. Universities do not have a general duty of care to protect all students in all respects of their college life. Universities recognize their students' adult status, and that students have a right to privacy and autonomy in their personal mental health decisions.

To determine whether a university has a special relationship with a student and corresponding duty of care to protect the student from self-harm, the court took into account:

- Students are adults but often young and vulnerable; their right to privacy and their desire for independence may conflict with their immaturity and need for protection.
- Universities have a primary mission to educate and they are no longer acting *in loco parentis*, however they still have a wide-ranging involvement in their students' lives.

Keeping these complex relationships in mind, the court found that where a university has actual knowledge of (a) a student's suicide attempt that occurred while the student was enrolled at the university or recently before he or she enrolled at the university; or (b) a student's stated plans or intentions to commit suicide, the university has a duty to take reasonable measures to protect the student from self-harm. The court stressed, "[i]t is important to understand the limited circumstances creating the duty. It is definitely not a generalized duty to prevent suicide."

While the duty only arises in limited circumstances, the court noted that when it is triggered (*i.e.*, the university knows the student made recent suicide attempts or the student expressed specific plans to commit suicide to a university official) the burden on the university "is not insubstantial, but so is the financial benefit received from student tuition." The court went on to note that "[m]oral blameworthiness on the part of the university in failing to act to intervene to save a young person's life, when it was within the university's knowledge and power to do so, is understood and accepted by our society."

The court provided guidance to universities about reasonable measures to take once a duty to protect a student from self-harm is triggered. If a university initiates its suicide prevention protocol, it will have satisfied its duty. In the absence of a suicide prevention protocol, a university employee who learns of a student's suicide attempt or intentions to commit suicide, must contact the appropriate university officials who can help the student receive care from medical professionals, or if the student refuses care, to notify the student's emergency contact.

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The court went to pains to stress that the duty – at least for university personnel who are not medical professionals – “is limited.” It is created only by “actual knowledge” and can be satisfied by initiating the suicide prevention protocol or arranging for medical care if there is no protocol and alerting a student’s emergency contact if the student refuses medical care.

While the duty is limited, it is real, and universities should take steps to ensure that they have a suicide prevention protocol in place and that personnel teaching, advising or otherwise interacting with students are trained in the protocol and when it should be initiated. The court also distinguished Nguyen, a 25-year-old living off campus, from a younger residential student where a university has fostered expectations that reasonable care will be taken to protect the residential student from harm. Universities should take extra care to ensure that those interacting with younger students living in the dormitories are well versed in the suicide prevention protocol and willing to trigger it when needed.

If you have questions or would like further information, please contact Melissa Nott Davis (davism@whiteandwilliams.com) or a member of our Education Law Group.

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