Ohio Appellate Court Rules in Favor of School District in Bullying Prevention Lawsuit

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In *Vidovic v. Hoynes*, the parents of a student who was subjected to bullying at school sued their child's high school principal, guidance counselor and superintendent for negligently failing to implement a support plan to address the bullying of their child.

The student experienced bullying at school, which began in middle school and continued through high school. This included name calling, harassing phone calls and physical acts. In November, 2007, the student was allegedly pushed down the stairs at school. After this incident, the student threatened to commit suicide, and as a result, she was admitted to a hospital and saw a counselor.

In January of 2008, before the student returned to school, her mother met with the high school principal and counselor. She told them that her daughter was in the hospital because of problems at school and asked them to protect her daughter. She was assured that this would be addressed and a plan was created to prevent bullying of the student. Additionally, the school had certain measures in place related to the prevention of bullying and suicide. The student was involved in a fight during the summer of 2008. She was homeschooled beginning in the fall of 2008 and committed suicide soon thereafter.

In their lawsuit against the principal, guidance counselor, and superintendent, the parents argued that their daughter took her life after she experienced months of harassment and bullying at the hands of other students. The parents also argued that the various defendants were aware of the bullying, but had done nothing to halt the behavior or to prevent her death, and that the school failed to follow its bullying policy for documenting incidents. It was alleged that these actions constituted wanton and reckless conduct, malicious purpose and bad faith. As a result, the parents argued that the defendants were not eligible for immunity.

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The trial court held in favor of the defendants, granting summary judgment on each of the claims brought against them. In considering the claims, the trial court determined that the actions of the defendants were either appropriate or simply negligent (rather than constituting gross negligence) at worst. On appeal, the Court of Appeals upheld the finding of the trial court. The Court was not persuaded by the argument of the parents that the failure of the school to properly document the various instances of bullying in line with the school's policy was adequate reasoning to find the actions of the school to be wanton, reckless and with malice. Ultimately the Court found that the defendants acted appropriately with the situation. The fact that the actions may not have been entirely effective did not mean that the conduct was reckless, grossly negligent, wanton, or that it demonstrated malice.

What You Need To Know

Based upon this holding and previous court decisions, a school district is not required to take "perfect action" to remedy bullying issues to avoid claims related to gross negligence or acting with malicious purpose, bad faith, or in a wanton and reckless manner. A school district should, however, take some precautions or steps to recognize and address the bullying issue.

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