

## THE SCHOOL RULE: School Negligence Claims

by David R. Hostetler, Esq.

*This article continues the current School Rule series on risk management and, using a case decided last month as an example, addresses the general principles of legal negligence in schools.*

No one expected that when Armand Stirus ran his “slant 32” pass route during an indoor high school football practice that he would wind up in the courtroom rather than the end zone. In a Louisiana case, Armand sued his coach, athletic director and the St. John the Baptist Parish School Board for negligence.<sup>1</sup>

Armand’s St. John football team was forced into its gym when a downpour began during the outdoor practice. The players, in transition, were to switch from cleats to sneakers and were “on their own to change and report to the gym.” Some players, however, never changed their clothes, thus contributing to a slick gym floor. The coaches also knew that the tile floor occasionally would “sweat” when the gym’s air conditioning was not properly set. At the indoor practice on that day, players participated in throwing drills during which Armand made a sharp cut on his pass route, slipped on a moist spot and fell hard, fracturing and dislocating his hip, eventually requiring surgery.

In his suit for damages, Armand claimed that the defendants were liable for failing to properly supervise and protect the football players, primarily because the coach conducted the indoor practice in conditions that he knew or should have known were unsafe under the circumstances.

The court’s analysis provides a concise and instructive summary of school negligence law.<sup>2</sup>

A school board, through its agents and teachers, owes a duty of reasonable supervision over students. The supervision required is reasonable, competent supervision appropriate to the age of the children and the attendant circumstances. This duty [however] does not make the school board the [complete] insurer of the safety of the children.

To establish a claim [for negligent supervision] a plaintiff must prove: (1) negligence on the part of the school board, its agents, or teachers in providing supervision; (2) a

causal connection between the lack of supervision and the accident; and (3) that the risk of unreasonable injury was foreseeable . . . .

Negligence is based on the existence of a duty and the breach thereof that causes damages. A duty is an obligation recognized by law to conform to a particular standard of conduct toward another. The standard of care for school teachers and administrators is that of a reasonable person in such a position acting under similar circumstances. “Reasonable care includes protecting against unreasonable risk of injury from dangerous or hazardous objects in the school buildings and on the grounds.”<sup>3</sup>

Without ultimately deciding the merits of Armand’s claim, the court did say that there were enough factual issues to be resolved by a jury that the case could proceed further to determine if the school and its officials were liable for negligence.<sup>4</sup>

### Practice Points:

- Negligence claims are one of the leading causes of litigation against independent schools. It is important for school officials and employees to be trained to understand their basic legal obligations for reasonably supervising students and ensuring safety. Reasonableness and foreseeability of harm are key legal standards.
- Negligence can arise in many contexts of school operations: student supervision, school athletics and other dangerous activities, unsafe grounds and facilities, off-campus events and field trips, volunteer liability, visitor and trespasser liability, failure to report certain acts to legal authorities, etc. (Subsequent School Rule columns will address several of these.)
- Negligence claims depend very much on the particular circumstances of each case. Therefore, thoughtful consideration and review by a school attorney is usually necessary to assess probable or potential risks of liability.

*The “School Rule” column is designed to offer legal updates and practical legal recommendations. Mr. Hostetler, legal consultant for ACCS, specializes in education law, is founder and director of Lex-is School Law Services (Chapel Hill, NC), and is an associate professor of education law, policy, and ethics at Appalachian State University (Boone, NC). He may be contacted at [hos@Lex-is.com](mailto:hos@Lex-is.com) or (919) 308-4652.*

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- As noted in previous columns, schools should appoint a committee or staff person responsible for assessing and coordinating school safety and risk-management efforts and policies.
- Schools are encouraged to implement frequent safety-audit procedures to review the various areas of risk and the necessary prevention and response measures.
- Documentation of all efforts to minimize and respond to risks in a prompt and reasonable manner is critical to defending a school from liability claims and policies.

Note: This column is for information only and not offered as formal legal advice. Readers are urged to consult a school law attorney to address specific legal questions.

### Endnotes

1. The case is *Stirgus v. St. John the Baptist Parish School Board, et al*, 2011 La. App. LEXIS 763 (La. App. June 14, 2011).
2. Although negligence is a matter of state law and can vary from one state to another, the basic requirements of a negligence claim are fairly similar in each state, particularly in their general form, as summarized by this court.
3. *Id.* at p. 8. [Citations omitted]
- 4 The court was reviewing and overturned a lower court's previous dismissal of the case that favored the defendants. By reversing that decision, the case will proceed to trial for a determination of negligence.

## New Member

### Member School

*Calvary Christian Academy  
San Jose, CA*

## Regional Teacher Training Events

ACCS endorses these teacher training programs offered by ACCS-accredited schools.

July 12-14, 2011 Moscow, ID	Teacher Training Hosted by Logos School
July 25, 2011 Gettysburg, PA	Optional Gettysburg Fieldtrip Hosted by Rockbridge Academy
July 26-29, 2011 Millersville, MD	Summer Teacher Training Hosted by Rockbridge Academy
July 24-29 Lancaster, PA	Classical Christian Fine Arts Training Hosted by Veritas Academy
August 4-5, 2011 Newberg, OR	Fourth-Annual Teacher Conference Hosted by Veritas School