

Part of the explanation for school officials' frequent defendant status is the financial "deep pocket" of larger educational institutions. Schools are often the largest institutions in the community, with relatively substantial insurance coverage and other financial resources to pay monetary damages. If school employees have arguably been negligent, the school district is an attractive legal target.

Plaintiffs will generally name as defendants every school official in the chain from the individual who is alleged to have directly caused the harm, through all intervening supervisors, and up to the heads of the educational institution with control of the "deep pocket" resources and responsibility for policy decisions and general governance of the school. While individual liability is possible under some circumstances, the goal is usually not to obtain damages from individuals, but to obtain compensation for damages from the larger funds available to the educational institution. Even large educational institutions, however, do not have unlimited capacity to pay damage claims. And every dollar paid out in tort liability is one less dollar to fund education, making liability prevention a high priority for educational institutions.

To prevail in a negligence claim, the plaintiff must prove by a preponderance of the evidence that a legal duty to the plaintiff existed, defendant school officials breached that duty, the breach of duty caused the plaintiff's injuries, and there are compensable damages. The plaintiff must prove all four elements of a negligence claim to prevail:

- 1) Duty;
- 2) Breach of Duty;
- 3) Causation (both factual and legal cause); and
- 4) Damages.

Establishing the Defendant's Duty to the Plaintiff

Under the U.S. system of tort law the only general duties are to refrain from harming others and to act as a reasonable person under the circumstances. There is, however, no general duty to act affirmatively or render aid to others absent the creation of a legal duty by the defendant's actions or through a special relationship with the plaintiff. While there may be an ethical or moral duty to help others in need of help, these are not legally enforceable duties under tort law.

For example, if you were to see someone laying on their back in the parking lot calling for help, while most people would agree that you should help people in need if you can, there is no legal duty to help. Unless, of course, the reason the person is laying in the parking lot is because you ran over him or otherwise caused his injury. No general duty to render aid exists, but you may acquire a duty to help if you caused the injury; if you offered to help and the plaintiff reasonably relied on that offer of help; or if you somehow made the person's situation worse. But absent actions on your part that cause a legal duty to attach there is no general duty to render aid to persons with whom you have no special relationship.

There is, however, a special duty to help someone with whom you do have a special relationship. For example, parents have a duty to their children; teachers have a duty to students; doctors have a duty to patients; etc. The duties of parents include providing their children with necessary food, shelter, clothing, medical care, education, protection, and adequate parental supervision. Teachers acting *in loco parentis* have a general duty to instruct, reasonably supervise, and protect children from known or reasonably foreseeable dangers while the children are under the teacher's care. School officials also have a duty to reasonably supervise employees