

Bond Case Briefs

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LIABILITY - ILLINOIS

Mulvey v. Carl Sandburg High School

Appellate Court of Illinois, First District, Sixth Division - October 28, 2016 - N.E.3d - 2016 IL App (1st) 151615 - 2016 WL 6461677

Parents of minor high school student brought action, on behalf of themselves and student, against high school, school district, and district officials and coaches, for injuries student allegedly sustained as result of school bullying, asserting claims for breach of contract and willful and wanton conduct. Student's older sister, a former student, brought similar claims.

The Circuit Court dismissed all claims. Plaintiffs appealed.

The Appellate Court held that:

- Bullying prevention provisions in student and athletic handbooks were not legal offers sufficient to support valid contract between plaintiffs and defendants;
- Neither students' attendance at school, nor parents' payment of property taxes, created sufficient consideration needed to establish contract with school; and
- Individual defendants were entitled to discretionary immunity under Local Governmental and Governmental Employees Tort Immunity Act.

Bullying prevention provisions in student and athletic handbooks, providing that public school district's progressive discipline policy was consistently and fairly applied and that superintendent or designee would develop and maintain an anti-bullying program, were not legal offers sufficient to support a valid contract between students and school, needed to support breach of contract action premised on students' alleged bullying. State law required creation, implementation, and enforcement of policy prohibiting bullying, and provisions did not include any specific promise to prevent or eliminate bullying, with handbooks instead indicating that preventing students from engaging in disruptive behaviors was an important district goal.

Neither students' attendance at public high school, nor parents' payment of property taxes, created sufficient consideration needed to establish contract with school which would support breach of contract action premised on students' bullying, in alleged violation of student and athletic handbooks. School attendance could not be considered a legal detriment or disadvantage to students, in that students were required to attend school until age 17 unless already graduated, and students' attendance did not benefit school, in that public school was required to provide free education to any students living within district.

High school administrators, coaches, and guidance counselors were performing discretionary, rather than ministerial, acts in responding to student's allegations of bullying and, thus, such defendants were entitled to discretionary immunity under Local Governmental and Governmental Employees Tort Immunity Act in action by parents, individually and on behalf of student, for willful and wanton conduct premised on bullying in alleged violation of student and athletic handbooks. Anti-bullying policy adopted by the district did not mandate a particular response to certain situations, but instead allowed school district personnel to determine whether bullying had occurred and what remedial

action was appropriate.