

# **Bond Case Briefs**

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## **IMMUNITY - NEW YORK**

### **Tara N.P. v. Western Suffolk Bd. of Co-op. Educational Services**

**Supreme Court, Appellate Division, Second Department, New York - August 12, 2015 - N.Y.S.3d - 2015 WL 4744397 - 2015 N.Y. Slip Op. 06498**

Student brought action against, among others, county, county department of social services, county department of labor, alleged assailant, facility owner, and regional educational service agency, seeking damages for personal injuries she sustained when sexually assaulted while attending class at facility. County agencies moved for summary judgment dismissing complaint and all cross claims insofar as asserted against them. The Supreme Court, Suffolk County, denied motions. County agencies appealed.

The Supreme Court, Appellate Division, held that:

- County agencies were entitled to governmental immunity from student's claim, and
- Fact issues precluded summary judgment on contribution claim.

County, county department of social services, and county department of labor were entitled to governmental immunity from vocational student's claim seeking damages for personal injuries she sustained when sexually assaulted while attending class at facility where county referred level three sex offender for welfare to work program. County agencies did not voluntarily assume a special duty to student, student did not allege that county agencies violated any statutory duty, and county agencies did not assume positive direction and control in the face of a known, blatant, and dangerous safety violation.

Genuine issue of material fact existed regarding whether county, county department of social services, and county department of labor breached a duty of care to facility owner by referring level three sex offender to work at facility where vocational training was offered, precluding summary judgment on facility owner's claim for contribution against county agencies in student's action seeking damages for sexual assault at facility.