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LEGAL UPDATE

June 14, 2010

To: Superintendents/Presidents, Member School Districts (K-12)

From: Frank Zotter Jr., Sr. Associate General Counsel *FZ*

Subject: School Entity that Sponsors Field Trip Entitled to Immunity
Memo No. 16-2010

On March 23, 2010, the California Court of Appeal, Fourth District, published its decision in *Sanchez v. San Diego County Office of Education* (2010) ___ Cal.App.4th ___, D054560, ruling in favor of the County Office in a case involving the scope of immunity from lawsuits when a personal injury occurs on a field trip. The court's decision interprets Education Code § 35330, and concluded that a school district or other entity that sponsored a field trip was entitled to the immunity afforded by § 35330, even though the student involved was not a student of the sponsoring entity. This ruling therefore provides school districts and county offices with greater protection from lawsuits.

FACTS:

The San Diego County Office of Education (SDCOE) owns and operates a facility known as Camp Fox, an outdoor school facility located at the base of Palomar Mountain in northern San Diego County. All of the employees of Camp Fox are employed by SDCOE. The camp provides science-related programs to student attendees.

In February 2006, Virginia Sanchez was a sixth grade student attending McCabe Elementary School, a school within the McCabe Union School District. During the second week of February, Virginia, along with classmates and teachers from McCabe Elementary, attended Camp Fox for a five-day field trip, commonly known as "sixth grade camp." Attendance at sixth grade camp was voluntary.

On February 16, 2006, while at Camp Fox, Virginia suffered an asthma coronary attack. Camp counselors gave Virginia her asthma inhaler and performed CPR until paramedics arrived. However, by the time paramedics were able to airlift Virginia to Children's Hospital, Virginia tragically died from natural causes.

Virginia’s parents sued SDCOE alleging it was negligent in not providing adequate medical staffing at Camp Fox, and also that it had negligently misrepresented the level of medical staffing that would be provided at Camp Fox. SDCOE moved to dismiss the case under Education Code § 35330, arguing that it was entitled to the “field trip immunity” provided by that statute. The only disputed issue was whether the SDCOE was entitled to the immunity. The trial court concluded that the SDCOE was immune and dismissed the case. Virginia’s parents then appealed.

THE COURT’S DECISION:

Section 35330 subdivision (a) provides:

(a) The governing board of a school district or the county superintendent of schools of a county may: [¶] (1) Conduct field trips or excursions in connection with courses of instruction or school-related social, educational, cultural, athletic, or school band activities to and from places in the state

To further that end, a district¹ may provide equipment and supplies for a field trip or excursion and engage instructors and other personnel (§ 35330, subd. (a)(2)); may use district equipment or contract for equipment to provide transportation (subd. (a)(3)); and may provide supervision of pupils involved in field trips or excursions by certificated employees of the district (subd. (a)(4)). Students may not be excluded from field trips because of lack of funds (subd. (b)), and the attendance or participation of a student in a field trip or excursion is considered attendance for state education funding purposes (subd. (c)).

The most important part of the statute for the Sanchez case was § 35330, subdivision (d), which creates so-called “field trip immunity.” An immunity has been described as a “right not to be sued.”

Subdivision (d) provides: “[a]ll persons making the field trip or excursion shall be deemed to have waived all claims against the district, a charter school, or the State of California for injury, accident, illness, or death occurring during or by reason of the field trip or excursion.” Recent court decisions had already interpreted subdivision (d) as providing “broad immunity” from lawsuits in order to encourage school districts to sponsor field trips for educational opportunities.

The only question before the *Sanchez* court was whether the SDCOE could benefit from the immunity as the entity that “sponsored” the field trip, even though Virginia was a student at McCabe Elementary, not SDCOE. Her parents argued that the reference in subdivision (d) waiving all claims against “the district” referred to her “home district,” i.e., McCabe Union School District, not SDCOE.

The court concluded that the reference in subdivision (d) to “a school district” included a district such as SDCOE that “sponsored” the trip — or, to use the language of the earlier part of § 35330, the district that “[c]onduct[ed] [the] field trip[] or excursion[] in connection with courses of instruction or school-related social, educational, cultural, athletic, or school band

¹ SDCOE, or other county offices, are “districts” for the purposes of § 35330.

activities.” Therefore, even though Virginia had gone on a field trip conducted by a school entity other than her district of attendance, SDCOE was still entitled to benefit from the immunity. The court of appeal upheld the dismissal of the lawsuit brought by Virginia’s parents.

IMPLICATIONS FOR DISTRICTS:

The court of appeal concluded that the purpose of the immunity provided by § 35330, subdivision (d), was to encourage school entities to take advantage of the unique learning opportunities afforded by field trips. This case confirms that the immunity extends to any school entity that is a significant participant in conducting the trip.

The Sanchezes chose not to ask the California Supreme Court to review this case (the time to do so expired last week), so it is now a final decision.. This case can therefore be relied on in planning for field trips that involve more than one school entity.

If you have any questions, please contact one of the attorneys in our offices.