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Massachusetts' Supreme Court Finds Colleges May Face Liability for Student Suicide Under Certain Circumstances

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Earlier this month, Massachusetts' highest court ruled favorably for Massachusetts Institute of Technology ("MIT") and three school officials in a wrongful death lawsuit closely watched by educational institutions for close to a decade. The court found that while a special relationship and attendant duty to take reasonable measures to prevent student suicide may exist between an educational institution and its students, the limited circumstances giving rise to such a relationship and duty were not present in *Nguyen v. MIT & others*, 479 Mass. 436 (2018). Accordingly, the court found that MIT was not legally responsible for the student's death and entitled to judgment as a matter of law.

In brief, *Nguyen v. MIT & others* arose following the suicide of a graduate student in June 2009. The student had previously sought assistance from university officials to address test anxiety and a need for remedial study skills, and school officials referred the student to MIT's mental health and counseling office. At his intake meeting in 2007 and at various other times in the subsequent five months, the student declined mental health services from the university and denied suicidal ideations. Notably, the student did disclose to school officials a long history with depression and two prior suicide attempts in 2002 and 2005; however, the court noted that he was in treatment with private providers and wished to keep his academic and mental health challenges separate. The student had no additional interaction with the university's mental health and counseling office after 2007, but the student did seek assistance from faculty in his program regarding his continued academic challenges. Although the faculty knew the student was seeking treatment from private mental health professionals, the student did not reveal his history of mental health challenges, suicidal ideation or prior suicide attempts to these individuals. Instead, the student attributed his academic challenges to a medical condition—insomnia. Immediately following a tense phone call with a member of his faculty, the student committed suicide.

The estate for the student filed a wrongful death action against MIT alleging that the university was negligent and had caused the student's death by not exercising reasonable care to prevent the student's suicide. In rejecting the estate's claims, the court recognized that special relationships, such as between a school and its students, "may impose affirmative, albeit limited, duties in regard to suicide prevention." However, the court clarified that the duty to take reasonable measures to prevent a student suicide exists "[w]here a university has actual knowledge of a student's suicide attempt that occurred while enrolled at the university or recently before matriculation, or of a student's stated plans or intentions to commit suicide...." In explaining its conclusion, the court noted that its decision did not create a generalized duty for schools to prevent suicide, but instead, "sought to define the circumstances creating the special relationship and the duty realistically recognizing the scope of the suicide problem on university campuses, the capacities of non-clinicians and the nature



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of the modern university-student relationship.” The court went on to make clear that the duty hinges on foreseeability and thus, non-clinicians are not expected to probe or detect suicidal ideation, nor is knowledge of suicidal ideation sufficient to trigger the duty without any stated plan or intention to act on such ideation. In the event the duty is triggered, the court noted that reasonable measures to satisfy the duty include 1) initiating the institution’s suicide prevention protocol, if one exists; 2) in the absence of such protocol, contacting appropriate officials who may assist in obtaining clinical care from medical professionals and notifying parents where a student refuses such care; or 3) contacting police, or emergency medical personnel in the event of an emergency.

In the present case, the court affirmed the lower court’s decision and found that no special relationship between the student and any of university officials existed to create a duty to take reasonable measures to prevent suicide, because the student did not communicate plans or intentions to commit suicide and the prior suicide attempts occurred well in advance of his matriculation. Moreover, the court noted that there was no duty on the mental health and counseling office to notify the faculty as the student requested his academic and mental health issues be kept separate and assured officials that he was in active treatment with private providers for the latter. The court also rejected the estate’s claim that the university voluntarily assumed a duty of care by offering mental health services by noting that such liability attaches “only where a failure to exercise such care **increases** the risk of such harm, or the harm is suffered because of the other’s reliance upon the undertaking.” (emphasis added). The court found no evidence that the university’s offering of mental health services increased the student’s risk of suicide, especially where he sought services for a brief period nearly two years prior to his suicide. In fact, the court found it persuasive that the student rejected services and elected to engage nine private mental health professionals. The court also affirmed the lower court’s denial of punitive and emotional distress damages and a breach of contract claim as well as refused to address whether workers’ compensation barred the lawsuit on a motion for summary judgment.

In addressing the question of liability for student suicide, the court has signaled to colleges and universities located in Massachusetts, and other educational institutions around the nation, that they may have a special relationship to take reasonable care to prevent student suicide. While the court was careful to note that the duty exists only under limited circumstances, it is incumbent upon school officials to take note of this decision and review and revise their policies and practices where necessary, to ensure that appropriate actions are taken when needed to maintain student health and safety.

The full text of the court’s decision may be found at <https://www.mass.gov/files/documents/2018/05/07/12329.pdf>.

Questions or Assistance:

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