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## District Can Be Liable For Student's Off Campus Transportation Related Injuries

In a recent decision, *Eric M. v. Cajon Valley Union High School District* (2009) \_\_\_ Cal.Rptr.3d \_\_\_, WL 1395945, the California Court of Appeal held that a school district could be liable for a student's off campus injuries which occur after school hours, in connection with the district's duty to adequately supervise students while they board and exit a school bus.

In *Eric M.*, a six-year-old first grade student was injured when he was hit by a car off school grounds and after school hours. On the day of the accident, the student boarded the school bus, but before the school bus departed school grounds he told the bus driver that he saw his father's car and would ride home with him. The school bus driver grabbed the student's arm, asked if he was sure, and when the student responded that he was, the student got off the bus while it was still on campus. The car the student had seen was not his father's car, so the student proceeded to walk to the bus stop where the bus would have otherwise dropped him off. The student was struck by a car and injured while walking to the bus stop.

The school district argued that it was not liable for the student's injuries because it did not owe the student a duty of care pursuant to California Education Code section 44808, which provides immunity from liability under certain circumstances. Specifically, section 44808 states that a school district is not liable for the safety of a student when the student is not on school property unless the district has undertaken to provide transportation to the student to and from school premises, has undertaken a school-sponsored activity off school grounds, has otherwise specifically assumed such responsibility or liability or has failed to exercise reasonable care under the circumstances. If there is such an undertaking, the school district is liable for the conduct or safety of the student "only while such pupil is or should be under the immediate and direct supervision of an employee" of the district. (Ed. Code § 44808.) The district argued that Education Code section 44808's exception to immunity for districts that undertake to provide transportation did not apply in this case because at the time the student departed the bus, it had not yet left the school and had not actually "transported" the student anywhere.

The Court rejected the school district's argument, finding instead that the district's undertaking to provide transportation to the student necessarily included the process of boarding and exiting the bus. This undertaking resulted in a duty to provide transportation services with reasonable care. Further, the student's young age and the location of the bus stop where the student boarded the bus on school grounds supported a finding that the district also undertook to provide immediate and direct supervision during the boarding process. Finally, the Court relied on previous rulings where it found that even if an injury occurs off campus, a district can be liable if the injury results from its failure to supervise students on school grounds after school hours and the student leaves the premises and is injured. Thus, the fact that the student's injury took place after school and off campus did not bring the school district within section 44808 immunity because the school district had a duty to supervise the student leaving the bus.

This decision reinforces that a school district can be liable for injuries occurring off campus after school hours if the injuries are related to the provision of transportation services. Should you have any questions regarding *Eric M.* and its specific application to a particular case, please contact one of our four offices.

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