

Massachusetts SJC Recognizes Limited Affirmative Duty of Universities to Take Suicide Prevention Measures for Known-Risk Students

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On Monday, the Massachusetts Supreme Judicial Court issued a precedential decision in *Nguyen v. Massachusetts Institute of Technology et al.* (SJC-12329), which addresses the complicated issue of higher education institutions' responsibility to protect students at risk of suicide.

The plaintiff sued MIT and several professors and deans for the wrongful death of his son, who committed suicide as an MIT graduate student, alleging that MIT was negligent in not preventing his son's suicide. The case presented a somewhat novel question regarding the obligations of a university to intervene where a student appears or is known to be a suicide risk. The SJC held that in certain circumstances, there may be "a special relationship and a corresponding duty to take reasonable measures to prevent suicide" between a university and its student. However, in this case, there was no such duty, and the court affirmed the lower court's grant of judgment as a matter of law in favor of MIT.

The decision sets a new standard for universities in handling at-risk students. Although the SJC acknowledged that, as a general rule, there is no duty to prevent another from committing suicide, it concluded that in some circumstances, a special relationship may impose affirmative duties of suicide prevention. Rejecting the past notion of schools as "in loco parentis," the SJC reasoned that universities "are not responsible for monitoring and controlling all aspects of their students' lives," and acknowledged that students have an expectation of and right to privacy regarding their mental health records and personal mental health decisions. Nonetheless, universities are "clearly not bystanders or strangers in regards to their students," and have deep involvement in all aspects of a student's life, which may give rise to an affirmative duty of suicide prevention.

Based on this reasoning, the SJC held that a university has a special relationship with a student and a corresponding duty to take reasonable measures to prevent his or her suicide where the 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." This duty "hinges on foreseeability" and actual knowledge. In these circumstances, the university has a duty to take "reasonable measures under the circumstances to protect the student from self-harm."

In its opinion, the SJC provided some guidance on what "reasonable measures" means:

- For universities that have a suicide prevention protocol, reasonable measures "will include initiating [the university's] suicide prevention protocol."
- For universities that do not have such a protocol, "the university employee who learns of the student's suicide attempt or stated plans or intentions to commit suicide" must "contact the appropriate officials at the university empowered to assist the student in obtaining clinical care from medical professionals or, if the student refuses such care, to notify the student's emergency contact."
- If the situation is deemed an "emergency," reasonable measures include "contacting police, fire, or emergency medical personnel."

The court implied that universities have no duty to affirmatively prevent suicide; instead, the limited duty extends only to taking "the reasonable measures under the circumstances presented," and is "time-bound" in the sense that no duty is present if a medical professional has determined that a student is no longer a suicide risk.

This standard leaves open several questions for higher education institutions in interpreting the scope of their duty, including:

- How far back does "recently before matriculation" go?
- Should (and may) higher education institutions inquire about students' prior mental health issues of students directly, or of their prior educational institutions?

- When will a student no longer be considered a suicide risk after a prior suicide attempt or plan?

Moving forward, the lower courts in Massachusetts may be asked to answer some of these questions to provide further clarity on the scope of higher education institutions' duties.

Attorneys from Mintz Levin's **Education Industry Group** are available to help universities assess their policies and protocols to ensure compliance with this new standard and to address a host of other legal challenges facing educational institutions. For assistance, please **contact the author or another professional** in our Education Industry Group.

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