

CALIFORNIA

LIMITATION ON SCHOOL DISTRICT'S DUTY REGARDING TEACHER'S SEX ACT WITH STUDENT



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In a recent appellate court decision, the Third District Court of Appeals held that a school district's duty of supervision over teachers regarding sexual acts with a student is limited to the risks of harm that were reasonably foreseeable, i.e., that were known to the district or that reasonably should have been known to the district.

In *Jane Doe v. Anderson Union High School District et al.*, (Cal. Ct. App. No. C093099 - May 4, 2022), high school teacher Daniel Schafer had a sexual relationship with one of his 17-year old students, plaintiff Jane Doe, for about three months. This relationship began with hand-holding and texting. Eventually, Doe began visiting Schafer's classroom in the evening. On the first day of summer break, Doe and Schafer engaged in sexual activities. They engaged in additional sexual activities in the classroom and at Schafer's home.

Doe told her best friend about the relationship in 2018, and Anderson Union High School District learned of the relationship from the best friend's mother. The school investigated Schafer, obtained his resignation, and notified Doe's parents and law enforcement. Schafer pleaded guilty to crimes associated with this sexual relationship. Doe sued Anderson Union High School District, the school principal, and the superintendent ("the District") for negligent hiring and negligent supervision.

Schafer was hired by the District in 2012. At that time, there were no facts, reports, or rumors that Schafer had engaged in any improper relationship. The District had security cameras at the school, including a camera outside Schafer's classroom doors, but this footage was automatically erased after 14 days. The District's policy was only to review footage if they learned of an incident that may have been caught on video.

Teachers had unrestricted access to the campus. Prior to the report of Schafer and Doe's relationship, there had been no issues with teacher access. The school principal was the only administrator supervising the teachers' daily activities. The principal knew that teachers were on campus after hours, but she did not review any video footage or alarm logs because there had not been a problem.

In opposition to the District's summary judgment motion, Doe submitted a declaration of a retired principal, who made it a practice to review alarm logs. The retired principal would interview teachers and review video footage if he believed a teacher was spending too many late nights on campus. He believed that the current principal was negligent in performing her duty to monitor teachers.

Doe did not have evidence supporting the negligent hiring claim, so the trial court focused on the claim of negligent supervision. To prove this claim, Doe had to show that Schafer posed a risk of harm and that the risk was foreseeable. Here, "foreseeable" would mean that the District knew or should have known that Schafer posed a risk.

The trial court granted the District's motion for summary judgment and entered judgment in favor of the District, finding no evidence the District knew or should have known that Schafer posed a risk of harm to students. Doe appealed this decision on the grounds that: (1) the District had a duty to supervise and monitor Schafer and Doe; and (2) the adequacy of this supervision is a question of fact for the jury.

Doe contended that a school district's duty in hiring is different than a school district's duty in supervision. The appellate court disagreed, stating that the legal analysis in hiring and supervision both require a reasonably foreseeable risk of harm to support a duty. (*Thompson v. Sacramento City Unified Sch. Dist.* (2003) 107 Cal.App.4th 1352, 1372.) In this case, the District's duty of supervision was limited to the risks of harm that were reasonably foreseeable, i.e., that were known to the District or that reasonably should have been known to the District.

Doe also claimed that sexual abuse between school employees and students is foreseeable. However, the proposition that sexual misconduct is foreseeable any time a minor and an adult are alone together in a room has been rejected by the California Supreme Court. (*John B. v. Oakland Unified School Dist.* (1989) 48 Cal.3d 438, 450, fn. 9.)

The appellate court concluded that the District did not know Schafer would have sex with Doe, and the District had no information supporting a conclusion that it should have known. On this record, the District did not have a duty to review video footage or alarm logs to constantly monitor all teachers, students, or campus visitors. Accordingly, the appellate court did not need to address the breach of duty claim because the District did not have such a duty in regard to Schafer or Doe.

The appellate court affirmed the judgment.



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