



## **School District May Have Special Relationship with Their Students Requiring Protection of Students' Personal Security**

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In *Doe v. Covington County School District*, the Fifth Circuit Court of Appeals considered the circumstances in which a school district is required to protect students' personal security based on a special relationship with students.

In this case, a nine year old female student was checked out from her school by an unauthorized individual, who then proceeded to molest the student before returning her to school. The school district had adopted a compulsory check out policy, which listed by name the only adults who were authorized to take the student off of campus during the school day. The checkout policy did not include a requirement that an adult seeking to check out a student verify his or her identity. The parent and grandmother of the student filed suit against the school district, alleging that the school district had violated the student's due process rights.

As a general matter, a State's failure to protect an individual against private violence does not constitute a violation of the due process clause of the Constitution. However, if a State has a special relationship with an individual such a duty to protect exists.

The court found that a special relationship existed between the student and the school district which required the school district to protect the student. The court reached this conclusion in part because the student was of such a young age that she could not protect herself. The court noted that nine year old children do not possess the will to challenge adult authority figures, particularly where the authority is endorsed by institutions that children trust.

In addition, the court found that the school district's actions in affirmatively forcing the student into the offender's sole custody and repeatedly allowing him to take her away from the school district where the student could not protect herself further supported its decision that a special duty existed.

Given that the student established that the school district had a special relationship with her, the school district had a duty to not be deliberately indifferent to ensuring the student's safety. The court concluded that the school district acted with deliberate indifference to the student's safety by checking her out to an unauthorized adult without verifying his identity.

This case demonstrates the importance of crafting a student check out policy that includes procedures to verify the identity of an adult seeking to check out a student, in addition to other safeguards, to protect students from being checked out by unauthorized individuals. In the absence of such a policy and procedures, a school district may be found to have violated an injured student's due process rights.



## More Information

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