

Video Raises Questions Over Shen Principal's Use of Force to Break Up Fight

By Michael W. Macomber

The viral distribution over the Internet of a video showing a Shenendehowa school district supervisor using physical force to break up a fight between two girls is raising questions over the potential liabilities attached to such interventions.

The 15-second video shows the fight in which one girl wearing a hoodie sweatshirt with a peace sign on its back punches and kicks a girl who tries to defend herself while lying on her back. After one adult unsuccessfully attempted to verbally break up the fight, a man who has been identified as Shenendehowa Assistant Principal Matthew Heckman rushes to the scene and shoves the girl standing to the ground.

According to a Shenendehowa statement, the fight occurred last year, though the video footage recently surfaced on Comedy Central's Tosh.O web site. Although Shenendehowa has said a district review of the fight found Heckman acted appropriately, the incident begs the question of where the line is drawn between the use of reasonable and unreasonable force to break up fights, especially if a student is hurt by such physically forceful intervention. Could such a student sue the school?

In this case, the question is whether the supervisor used unreasonable force by pushing one of the students. This is a tricky question because determining the reasonableness or excessiveness of an action is a very subjective matter. New York State Board of Regents rules prohibit teachers and administrators from using corporal punishment or aversive interventions, with some exceptions. Under 8 NYCRR § 19.5, corporal punishment is defined as "any act of physical force upon a pupil for the purpose of punishing that pupil." However, when alternatives to physical force cannot be reasonably employed, reasonable physical force can be used to protect oneself against physical injury, to protect another pupil or teacher, to protect school property or to remove a misbehaving student who has refused to refrain from further disruptive acts.

Clearly, the question of whether force was excessive depends on the circumstances of the case. In New York, the 3rd

Department of the Appellate Division of the Supreme Court has upheld a Department of Education commissioner's finding that a teacher used unnecessary and unjustified force when he grabbed a disruptive student by the neck and pushed him against a chalkboard (*Cargill v. Sobol*). In other states, courts have found that excessive corporeal punishment occurred when a school official dragged a student across a room and hit the student's head against a metal pole (*London v. Directors of DeWitt Pub. Schs*), and when a principal slapped a student in the face, punched a student in the chest, grabbed a student's neck, and threw a student head first into a locker (*P.B. v. Koch*).

It is important to remember the video clip of the Shenendehowa fight provides a very narrow view of the incident. More may have been going on off camera that could make the principal's actions seem more or less appropriate. Parents with questions over the unreasonableness of the physical force a teacher or administrator has used against their children should contact a personal injury attorney.

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