



CAMPUS COUNSEL

A legal blog written for administrators, HR professionals, in-house counsel, and deans at colleges and universities

Massachusetts Colleges and Universities Owe A Duty of Care To Students Who Are Voluntarily Intoxicated on Campus

BY BOWDITCH & DEWEY • NOVEMBER 2, 2020

Generally, under Massachusetts law, one does not owe others a duty to take action to rescue or protect them from conditions that one has not created. However, there is an important exception to this rule that affects all Massachusetts colleges and universities.

Namely, since the early 1980s, beginning with the Supreme Judicial Court (“SJC”) case *Mullins v. Pine Manor College*, Massachusetts courts have recognized that while colleges and universities are not responsible for monitoring and controlling all aspects of their students’ lives, these institutions nonetheless have a “special relationship” with their students which imposes a duty to protect their students from certain foreseeable harms. Even if these harms are not related to any action taken or condition created by the college or university.

Over time, Massachusetts courts have clarified what this duty entails. For example, in *Mullins v. Pine Manor*, the SJC concluded that the duty requires a college or university to take reasonable measures to protect its students from foreseeable criminal acts of third parties, including, but not limited to, on-campus sexual assaults. Years later, in the 2017 case *Dzung Duy Nguyen v. Massachusetts Inst. of Tech.*, the SJC further concluded that the duty also requires a college or university to take reasonable measures to protect its students from self-harm in situations where the school has actual knowledge of a student’s stated plans or intentions to commit suicide, or if the student previously attempted suicide while enrolled at the institution or shortly before matriculation.

The SJC most recently expanded the scope of this duty in July 2020 with its opinion in the case *Helfman v. Northeastern University*, where it recognized that Massachusetts colleges and universities also have a duty to take reasonable measures to protect intoxicated students from harms associated with alcohol-related emergencies in certain, narrow circumstances.

Specifically, the SJC in *Helfman* concluded that colleges and universities must take reasonable measures to protect an intoxicated student from harm where the institution has actual knowledge of conditions that would lead a reasonable

person to conclude that the student is in imminent danger of serious physical harm due to alcohol intoxication, and is so intoxicated that the student is incapable of seeking help for him or herself.

As such, the duty recognized in Helfman is narrow and limited in an important respect: it applies only when a college or university is already aware that a student is at imminent risk of harm due to alcohol intoxication. Accordingly, the mere fact that a student on campus is intoxicated does not by itself necessarily trigger any duty by the institution to take action. Indeed, the Court found in favor of Northeastern in the Helfman case because, even though the university's Resident Advisors knew the student-plaintiff was "obviously intoxicated" at a dorm room party and heard reports that the student appeared ill from drinking alcohol, there was no indication that the student was "dangerously intoxicated," nor any other indication that the student was experiencing an emergency (for example, the student never lost consciousness at the party). The Court found that the Resident Advisors acted reasonably when they stopped to check on the student-plaintiff and, after confirming that the student was not vomiting, allowed two other students to escort her back to her own dormitory.

Nevertheless, Helfman clarifies that if a college or university is aware of circumstances that suggest a student is dangerously intoxicated, the institution has a duty to act reasonably to protect the student. Such action may include calling for medical or other forms of assistance. If a college or university fails to act to attempt to protect the student in these circumstances, it could be found liable for any resulting harm suffered by the student.

CLIENT TIP

To avoid liability, colleges and universities should be aware of the extent of their unique duty to protect their students under Massachusetts law.