

Commonwealth Court Casts Doubt on Immunity in Sexual Abuse Cases

By: Ira Weiss, Esq.



The issue of sovereign immunity is on the table as the result of a decision of the Commonwealth Court. In L.F.V., a Minor, by Her Legal Guardians Kimberly Varano and Joseph Varano, and Kimberly Varano and Joseph Varano in Their Own Right v. South Philadelphia High School and Philadelphia School District, the Commonwealth Court ruled that in the case of student-on-student sexual abuse the case against the School District could proceed in spite of the fact that no district employee or agent was involved with the abuse.

What is Sovereign Immunity?

Under the English Common Law, the King enjoyed complete immunity from suit. This immunity was upheld in Pennsylvania for centuries. That changed in 1973 when the Pennsylvania Supreme Court in Ayala vs Philadelphia Board of Public Education ruled that the doctrine of sovereign immunity was abolished and directed the Pennsylvania State Legislature to enact legislation permitting suits against governmental entities.

In response to this ruling, the Legislature approved the Political Subdivision Tort Claims Act (PSTCA), 42 Pa.C.S. 8542, et seq. The PSTCA protects governmental entities, including school districts, from certain legal actions through the doctrine of sovereign immunity. As enacted, there were eight (8) exceptions which could give rise to suits against governmental entities.

These exceptions include (1) negligence related to the operation of an agency's vehicle, (2) a dangerous condition of streets, (3) a dangerous condition of sidewalks, (4) a dangerous condition of real property, (5) the care, custody, or control of personal property, (6) the care, custody, or control of animals, (7) a dangerous condition of trees, traffic lights, and street lights, and (8) a dangerous condition of steam, sewer, water, gas, or electric systems. In 2019, the Legislature added a ninth exception (9) sexual abuse conduct "which constitutes an offense enumerated under [42 Pa.C.S.] 5551(7) (relating to no limitation applicable) if the injuries to the plaintiff were caused by actions or omissions of the local agency which constitute negligence." There is also no damage cap for cases under this exception as compared with the \$500,000 cap in the eight other exceptions. When read together, the school district is liable if "the injury was caused by the negligent acts of the local agency or an employee thereof acting within the scope of his office or duties with respect to "conduct which constitutes an offense enumerated under section 5551(7). This

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Tax Assessment Updates: CLRs & Lawsuits

By: Elizabeth Sattler, Esq.



Tax assessment season has arrived! Last year, Allegheny County adjusted its tax assessment appeal process to a prospective system. This year, the window for 2026 tax assessment appeals opened on July 1, 2025, and will close on September 2, 2025. This brings Allegheny County in line with its surrounding counties, notably Beaver and Washington Counties.

Reductions in the CLR

Allegheny County:

The Common Level Ratio, known as the "CLR" has been adjusted for 2026. In Allegheny County, the CLR decreased from 52.7% in 2025 to 50.14% in 2026. This means that if a property owner purchased a property in 2026, it theoretically should be assessed at approximately 50% of its purchase price, to reflect the value as if it was sold in the base year (2012). While this is not an insurmountable reduction, it indicates that property values are rising; and the 2012 base year values continue to erode.

Beaver County:

Beaver County conducted a county-wide reassessment, certifying values in 2025. Upon completion of a reassessment, the CLR is 100%. The CLR for 2026 was reduced from 100% in 2025 to 77.11% in 2026. Due to the significant reduction, our office anticipates many owner-initiated tax assessment appeals seeking an assessment reduction based on the new CLR. Our office has already advised our districts regarding this reduction and remains steadfast in our defense of their tax bases.

Reassessment Litigation

In 2024, Pittsburgh Public Schools ("PPS") initiated a lawsuit against both Allegheny County and County Executive Sara Innamorato, seeking to compel a county-wide reassessment, and arguing the current base year system fails to guarantee the constitutional right to uniformity in taxation. The Court dismissed the case at the pleading stage, and PPS appealed to the Commonwealth Court. Both parties will file briefs in the fall.

Relatedly, in the winter of 2025, an individual property owner filed a lawsuit against the County of Allegheny and Chief Executive Sara Innamorato, also seeking to compel a county-wide reassessment. Plaintiff argued the 2012 base year system does not accurately reflect market fluctuations

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Tax Assessments, continued

that have occurred over the past 13 years in her neighborhood; and has resulted in non-uniform assessments.

The Plaintiff purchased a home in 2021, and the School District filed an assessment appeal of her property in 2022, seeking an increase in assessment based on the application of the existing common level ratio of her 2021 sales price. The School District prevailed, and the Plaintiff's assessment was increased to a value above most of the neighboring properties, which Plaintiff argues is unconstitutional. This case is pending in the Court of Common Pleas, and the parties are exchanging documentation in anticipation of a trial.

The attorneys at WBK will continue to keep clients abreast of developments and remain ready to answer questions regarding tax assessment appeals and related issues.♦

Commonwealth Courts Casts Doubt, continued

language was widely interpreted to mean that to have liability under this exception, the conduct had to be committed by a school district or one of its employees.

The L.F.V. Case

In L.F.V., the Commonwealth Court denied the District's Preliminary Objections to the Complaint and ruled that the case could proceed even though the abuse was committed by students. While there have been several cases that seemed to suggest that a district could be held liable even if the conduct was not committed by an employee, this case has created a very low bar for plaintiffs to clear to get the matter before a jury.

Impact

By endorsing a negligence standard, the case presents challenges to school districts. This analysis is far short of the "deliberate indifference" standard that applies in Title IX or Section 1983 cases. The negligence standard, taken together with removal of the damage cap and the extension of the statute of limitations to a claimant's 55th birthday, greatly expands the financial exposure of a school district. These factors make it likely that insurance coverage will not be available or, if available, will be very difficult to afford.

Because negligence involves foreseeability, there is a burden on school personnel to take necessary steps when made aware of threats, both in person and on social media, as well as responding to "talk" in schools even when the conduct relates to student-on-student matters. Training is absolutely necessary to ensure that a school district can demonstrate it has taken reasonable steps to train its staff in these areas. Additionally, policies should be reviewed with legal counsel to ensure that student-on-student conduct is addressed adequately. With a negligence standard, the conduct of any teacher, administrator or employee in failing to take steps to prevent such abuse can be attributed to a school district under the vicarious liability legal standard applicable in any negligence case.

WBK is prepared to assist in training and policy review to help school clients to take proactive steps in this area. ♦

WBK Happenings

- Attorney Megan Turnbull will be presenting at the 2025 PSBA School Law Workshop. The Workshop is scheduled for October 20th and will be held at Kalahari Resort in the Poconos. Attorney Turnbull's presentation will cover labor & employment issues.
- On October 21, 2025, Attorney Annemarie Harr will be providing student services updates to attendees at the 59th Annual National Association of Pupil Services Administrators Conference being held in downtown Pittsburgh.
- Attorney Harr will be presenting on the topic of Restraints and Reporting Requirements at the Exceptional Children Conference being held at Central Penn College in Summerdale, PA on October 24, 2025.
- Attorneys Harr and Ira Weiss will be collaborating to teach a fall course at the University of Pittsburgh titled Competent Management of Student Services.
- Attorney Jocelyn Kramer will be presenting on public sector employee discipline at the ACBA's Labor & Employment Law Symposium on November 13, 2025 in Pittsburgh.
- Weiss Burkardt Kramer has been named a 2026 Best Law Firm in the United States by *Best Lawyers* in their Best Law Firms awards. In addition, the firm has been named a Tier 1 firm in Pittsburgh for Education Law and a Tier 1 firm in Pittsburgh for Municipal Law Best Law Firms award. Tier 1 recognition is reserved for the highest scoring firms during the annual review process.
- Attorneys Ira Weiss and Jocelyn Kramer have been named as *The Best Lawyers in America* in the publication's 2026 edition. ♦

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