



Colleges and Universities are Reminded to Follow Campus Security Policies Or Risk a Negligence Claim¹

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On April 1, 2014, the Pennsylvania Superior Court decided Murray v. Albright College,³ which not only impacts Pennsylvania colleges and universities, but could provide persuasive authority for courts across the nation. The Superior Court held that the trial court erred when it dismissed negligence claims against Albright College because sufficient evidence existed to demonstrate that a student assault was foreseeable and that Albright College violated its duty to protect the student.

I. THE CASE

Patrick Murray, a freshman resident at Albright College, was assaulted after two students perceived that he had snitched on them to campus security for possession of a handgun and approximately one pound of marijuana. Murray, and his parents, filed a civil complaint against Albright for negligence, which was dismissed by the trial court on summary judgment.

The Superior Court addressed two issues: (i) whether the trial court erred when it concluded that the assault on Murray was not foreseeable; and (ii) whether the trial court erred when it concluded that Murray assumed the risk of his own injury when he did not seek help after receiving threatening text messages and opened his dorm room door at the time of the attack.

As to the first issue, the Superior Court held that substantial evidence existed for a jury to conclude that retaliation against another student living in the same residence hall on the same floor was within the “general type of risk” that Albright’s safety program had promised to protect and, as a result, was “foreseeable.” The Superior Court noted that a dispute of material fact existed as to whether Albright’s safety program worked “perfectly” and, therefore, the trial court had erred in granting summary judgment.

As to the second issue, the Superior Court held that the trial court erred by concluding that Murray had assumed the risk by not forwarding threatening text messages to campus police

¹ This article is designed to provide one perspective regarding legal developments, and is not intended to serve as legal advice, nor does it establish an attorney-client relationship with any reader of the article where one does not exist. Always consult an attorney with specific legal issues.

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³ No. 1773 MDA 2012 (Pa. Super. Ct. April 1, 2014).

and by opening his dorm room door. The Superior Court reasoned that, while it might have been more prudent for Murray to report the threats and not open his dormitory door, it did not automatically follow that Murray assumed the risk of being injured and, therefore, eliminate Albright's duty to protect him.

II. PRACTICE POINTS

Assaults and crimes unfortunately occur on university and college campuses all too often. Thus, it is imperative not only to have the appropriate policies in place, but to ensure that staff and campus security are implementing and following those policies. In Murray, the Superior Court found it troubling that evidence existed that drug dealers had a substantial operation on campus and that rumors had circulated that retaliation would be taken against the so-called snitch, but that Albright did not follow its own campus security policies "perfectly" to protect the student. By not following its policy "perfectly," the Superior Court suggested that Albright could be liable for negligence.

While the Clery Act⁴ requires that institutions adopt security policies, it is important for institutions to ensure that they are not only reviewed and updated, but effectively implemented. Institutions should ensure that its students and employees receive training on the campus security policies and should encourage the students and employees to report any form of threat. Likewise, institutions must effectively implement and audit policies concerning the working relationship between campus security personnel and law enforcement agencies. Accurate and prompt reporting of all crimes to campus police and law enforcement agencies is not only required by the Clery Act, but essential to reduce litigation risk and risk of harm to students.

If you have any questions about the issues discussed in this article, please contact Karen Gaster at (610) 408-2017 or kgaster@rubinfortunato.com.

⁴ The Clery Act requires all postsecondary institutions to disclose certain campus crime statistics and security information and to create additional safety and security related policies and procedures.