

CLASSROOM TO CRIME SCENE:

School District Liability for Harm to Children With Disabilities

by HANI A. HABBAS

Imagine a four-year-old child who cannot tell you what happened to them at school today. They are nonverbal. They have autism. They communicate through sounds, gestures, and behavior. When they come home with lacerations on their face, bruising around the eye, and friction burns on the nose that were not there at drop-off, they cannot explain how they got there. They cannot name the adult who hurt them. They cannot describe what happened between 8:00 a.m. and noon in a classroom where their parent is not allowed to enter.



Their mother knows something is wrong because she can see the injuries. But what about the days when the harm does not leave a visible mark? What about the emotional trauma, the behavioral regression, the fear that builds over weeks and months in a child who has no words to describe it? What about the school that investigates itself, finds nothing, and puts the same teacher back in the same classroom?

If that scenario makes you uncomfortable, good. It should. Because it is happening in California schools right now, and most attorneys have no idea how to handle it when it walks through their door.

This article is about a category of cases that sit at the intersection of personal injury, civil rights, disability law, and education law. It is (in my opinion) under-litigated, underreported, and deeply misunderstood. And for the attorneys who learn to navigate it, it represents some of the most meaningful work you will ever do.

Start with what most attorneys know. Schools owe students a duty of care. Under California law, school districts and their employees have a duty to supervise students and to exercise reasonable care to protect them from foreseeable harm. *Hoyem v. Manhattan Beach City Sch. Dist.*, 22 Cal. 3d 508 (1978). That duty is heightened when the student is younger, more vulnerable, or has a disability that limits their ability to protect themselves or communicate what is happening to them—such as a nonverbal four-year-old student. The duty of care owed to that child is not the same as the duty owed to a seventeen-year-old in a general education classroom. It is substantially greater.

Now add the layer that makes these cases different from a typical school injury. When the harm is inflicted by the school's own staff, the analysis shifts. This is not a case where a child fell on the playground and the school failed to maintain the equipment. This is a case where the people responsible for the child's safety are the same people causing the harm. That distinction matters because it implicates not just negligence but intentional tort liability, and it raises serious questions about the district's hiring, training, supervision, and response protocols.

Under Government Code section 815.2, a public entity is liable for injuries proximately caused by acts or omissions of its employees within the course and scope of employment. Cal. Gov't Code § 815.2 (West 2026). When a teacher or aide physically harms a student, restrains a student without authorization,

or uses force that exceeds any reasonable educational purpose, the district is on the hook. The employee's conduct does not have to be authorized or approved by the district. It only has to occur within the scope of the employment relationship. *Mary M. v. Los Angeles*, 54 Cal. 3d 202 (1991).

But here is where these cases get complicated, and where most attorneys either miss the ball or never take the swing in the first place. The Government Claims Act requires a tort claim to be filed within six months of the accrual of

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the cause of action. Cal. Gov't Code § 911.2 (West 2026). That clock starts ticking when the parent knew or should have known of the injury. For a verbal child, that might be the day the child comes home and says "my teacher hit me." For a nonverbal child with autism, the accrual question is far more complex. The parent may not discover the injury for days or weeks. The behavioral changes may not become apparent until months later. And the school's own failure to document and report the incident, which is itself a violation of mandatory reporting obligations under the

Child Abuse and Neglect Reporting Act (Cal. Penal Code §§ 11164 et seq.), can delay the parent's discovery even further.

I think this creates a perverse dynamic. The school harms the child. The school fails to report the harm. The parent does not discover the harm in time. And the school benefits from its own failure to report by running out the clock on the parent's ability to file a claim. Attorneys who handle these cases need to be aggressive about the discovery rule and the delayed accrual doctrine, and they need to document the school's failure to report as an independent basis for liability that also tolls the limitations period.

The disability discrimination layer adds another dimension that personal injury attorneys should consider. Under Section 504 of the Rehabilitation Act (29 U.S.C. § 794), Title II of the Americans with Disabilities Act (42 U.S.C. § 12132), and California Government Code section 11135, a public entity cannot discriminate against a person with a disability or deny them meaningful access to public services. When a school district treats a disabled student differently from nondisabled students, fails to implement the student's IEP, uses unauthorized restraints, or retaliates against a parent who advocates for their child's safety, those are not just negligence claims. They are civil rights violations.

Consider a scenario that plays out more often than anyone wants to admit. A parent raises concerns about how staff are handling their disabled child. Instead of addressing the concern, the school changes the child's drop-off and pick-up procedures. The child and parent are required to use a separate entrance from everyone else, to pass through additional secured doors, and to follow a different process that no other family is subjected to. The school frames this as a "safety measure." But what it actually is, when you strip away the euphemism, is segregation. A disabled child and their parent are being physically separated from the rest of the school community because the parent complained. That is disability discrimination. It is also retaliation. And it is actionable under both state and federal law.

For the defense attorneys reading this, the other side of these cases is equally important. School districts are not staffed with villains. Most teachers and aides go into special education because they care about children with disabilities. But the systems that are supposed to protect these children are often inadequate. Training is inconsistent. Staffing is thin. Documentation practices are poor. And when an incident does occur, the district's

instinct is to investigate internally, minimize the findings, and restore the status quo as quickly as possible.

That instinct is the most dangerous thing a district can do. Because the plaintiff's attorney is going to request every internal communication, every incident report (or lack thereof), every email between staff and administration, and every document that shows what the district knew and when it knew it. If the district investigated and found nothing, the plaintiff is going to depose every person involved in that investigation and ask them to explain, under oath, how visible facial injuries on a nonverbal child did not constitute a substantiated finding. That is not a deposition any school administrator wants to sit through.

The better approach for defense counsel is to advise the district to take these reports seriously from the outset. Conduct a genuine investigation with appropriate outside involvement. Document everything. If staff conduct was inappropriate, address it. Do not put the same employee back in contact with the child and dare the parent to litigate. That decision, more than almost anything else is what turns a defensible case into an indefensible one. Because the jury is going to hear that the district knew what happened, concluded it was fine, and sent the child back into the same room with the same person who hurt them. No

amount of expert testimony about educational judgment is going to overcome that fact.

There is another dimension to these cases that deserves attention: the mandatory reporting obligation. Under the Child Abuse and Neglect Reporting Act, teachers, aides, administrators, and other school personnel are mandated reporters. Cal. Penal Code § 11165.7. When a mandated reporter has knowledge of or observes a child, whom the reporter knows or reasonably suspects has been the victim of child abuse or neglect, the reporter must make an immediate report to a child protective agency. *Id.* § 11166. Failure to report is a misdemeanor. *Id.* § 11166(c). But beyond the criminal exposure, the failure to report creates civil liability as well, because it deprives the parent of timely notice and deprives the child of the protective intervention that the reporting system is designed to trigger.

In cases involving nonverbal children, the mandatory reporting obligation takes on even greater significance. These children cannot self-report. They cannot walk into the principal's office and say what happened. The entire system of protection depends on the adults around them recognizing the signs and acting. When those adults are the same ones causing the harm, and when the other adults in the building look the other way, the child is trapped in a system that was designed to protect them but has failed completely.

For plaintiff's attorneys considering whether to take one of these cases, here is what you need to know. The government tort claim is your first hurdle, and it must be filed within six months. Do not wait. If a parent calls you with concerns about how a school is treating their disabled child, file the claim immediately, even if the full picture is not yet clear. You can always amend. You cannot undo a missed deadline.

Discovery in these cases is document-intensive. You will need the child's complete educational file, including the IEP, behavior intervention plans, progress notes, and any restraint or incident logs. You will need all staff communications, including emails, text messages, and any platform the school uses for internal messaging. You will need the school's policies on restraint, physical intervention, supervision ratios, and mandatory reporting. You will need training records for every staff member who had contact with the child, as well as surveillance footage (if it exists), which requires an immediate preservation demand because schools routinely recycle their camera footage on short cycles.

For defense counsel, the lesson is equally practical. Get ahead of the preservation obligation. Make sure the district's IT department preserves all footage, all communications, and all records the moment a complaint is received, not the moment a tort claim arrives. Advise your client that the internal investigation needs to be thorough, documented, and defensible. And if the facts are bad, advise your client to settle early rather than compound the damage by putting a nonverbal child through years of litigation while maintaining a position that the evidence does not support.

These cases matter. They matter because the children at the center of them cannot speak for themselves. They matter because the systems that are supposed to protect them are failing. And they matter because every attorney in Orange County, regardless of practice area, is one phone call away from a parent who does not know where to turn.

If a friend, a family member, or a stranger at a networking event tells you that something is happening to their child at school and they do not know what to do, you should know enough to point them in the right direction. And if you practice personal injury, civil rights, education law, or family law, you should know enough to take the case yourself.

Because the child cannot wait. And the clock is already running.



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