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NEWS

Pa. Appeals Court Backs Broader Application of Sex Abuse Exception to Sovereign Immunity

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June 09, 2025 at 05:01 PM

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Civil Appeals



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Litigation Reporter

What You Need to Know

- The Commonwealth Court ruled that the Philadelphia School District must face negligence claims arising from a student-on-student sexual assault that allegedly occurred in a district high school.
- The court rejected the Philadelphia School District's argument that it could not be held liable for abuse perpetrated by third parties.
- The ruling is a significant win for plaintiffs as courts grapple with the scope of a Pennsylvania statute allowing sex abuse lawsuits against state agencies.

The Pennsylvania Commonwealth Court ruled Monday that the Philadelphia School District must face negligence claims arising from a student-on-student sexual assault that allegedly occurred in a district high school.

The ruling is a significant win for plaintiffs as courts grapple with the scope of a Pennsylvania statute allowing sex abuse lawsuits against state agencies. The case, captioned *L.F.V. v. South Philadelphia High School*, drew the interest of a number of amici, including the Pennsylvania Association for Justice, the City of Philadelphia and Delaware County.

And in its precedential en banc opinion, the Commonwealth Court unanimously rejected the school district's argument that it could not be held liable for abuse perpetrated by third parties. Instead, the court favored a broader reading of a hotly litigated 2019 amendment that opened local agencies to civil liability over instances of sexual abuse.

Kline & Specter's Nadeem Bezar, Charles Becker, Helen Lawless and Andra Laidacker, who are representing the plaintiffs, said in a joint statement that the ruling "vindicates the language and intent of the Political Subdivision Tort Claims Act as to negligence claims involving sexual abuse."

Bezar added, "We are happy that the Commonwealth Court interpreted the statute the way the legislature intended. We understand the case still has a ways to go. But today is a step in the right direction."

Archer & Greiner partner Jeffrey Scott, who represents the Philadelphia School District, did not respond to a request for comment.

The underlying lawsuit was brought by the parents of a minor student, referred to as L.F.V., who claimed that two male students raped L.F.V. during gym class at a Philadelphia district school. The plaintiffs alleged the district breached its duty to protect L.F.V. by failing to provide adequate supervision of the school and its students

In preliminary objections, the school district asserted that Pennsylvania's Political Subdivision Tort Claims Act shielded it against the plaintiffs' claims. The plaintiffs, meanwhile, argued that the defendant could be held liable under an exception to sovereign immunity for sexual abuse lawsuits.

But the school district contended that the sex abuse exception did not apply to L.F.V.'s claims because the alleged abuse was not committed by the district or its employees. The defendant argued that it could not be held liable under the exception for harm caused by a third party.

The plaintiffs countered that they sought to hold the district liable for negligence that allegedly enabled the abuse, not for perpetrating the abuse itself.

The trial court sided with the plaintiffs and overruled the district's preliminary objections. And on Monday, the Commonwealth Court affirmed.

In reviewing the parties' arguments, the Commonwealth Court determined that both sides' interpretations of the exception were "reasonable" but "flawed." However, the court continued, the legislative history of the exception weighed more heavily in support of the plaintiffs' statutory interpretation.

The Commonwealth Court held, "We reject the district's contention that it is absolutely immune for the harm caused by third parties, i.e., the two minor students."

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