

March 17, 2026

NEW JERSEY SUPREME COURT EXPANDS POTENTIAL LIABILITY FOR PUBLIC SCHOOLS IN CHILD VICTIMS ACT CASES

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On March 11, 2026, the Supreme Court of New Jersey issued a significant decision interpreting the New Jersey Child Victims Act (CVA) and the New Jersey Tort Claims Act (TCA), holding that public school districts may face vicarious liability for sexual abuse committed by school employees even when the misconduct occurs outside the scope of employment and off school property. In a 6–1 ruling consolidating multiple appeals, the Court concluded that N.J.S.A. 59:2-1.3(a)(1) does not categorically bar vicarious liability claims against public entities for sexual abuse, reversing the Appellate Division and permitting the plaintiffs’ claims to proceed.

The decision substantially expands the potential exposure of public-school districts in civil litigation arising from alleged sexual abuse of students and clarifies the framework courts should apply when evaluating such claims under the CVA.

Background

The appeals arose from several lawsuits filed by former students alleging sexual abuse by teachers employed by public school districts. The plaintiffs argued that the CVA—enacted in 2019 to expand remedies for survivors of childhood sexual abuse—removed certain TCA immunities and permitted claims against public entities based on the abuse of authority conferred by employment. The Appellate Division rejected that argument and dismissed the vicarious liability claims, concluding that the statute did not authorize liability where the misconduct occurred outside the scope of employment.

The New Jersey Supreme Court granted review to determine whether N.J.S.A. 59:2-1.3(a)(1) permits vicarious liability claims against public school districts for sexual abuse committed by teachers beyond the scope of employment.

The Court’s Decision

The Court reversed the Appellate Division and held that the statute does not categorically bar vicarious liability claims in this context. Interpreting the CVA and the relevant provision of the TCA, the Court concluded that the Legislature intended to remove certain governmental

immunities that previously shielded public entities from civil liability in sexual abuse cases involving public employees.

Accordingly, the Court held that vicarious liability claims against public entities are not automatically precluded simply because the alleged sexual abuse occurred outside the scope of employment. Instead, such claims must be evaluated under a fact-specific standard that considers the relationship between the school, the employee, and the student. Specifically, the Court adopted a “tacit approval” standard and based on whether the school tacitly approved or failed to act on the abuse. The Court emphasized the “totality of the circumstances” inquiry and included a list of factors including the enforcement of policies, training, where and when the alleged abuse occurred, and how school officials responded to any claims.

No Fiduciary Duty Between Schools and Students

In addition to addressing vicarious liability, the Court considered whether public schools owe students a fiduciary duty and held that a public school district does not owe a fiduciary duty to a student because that would require “undivided loyalty.” Rather the applicable framework is a duty of “reasonable care” for student safety under New Jersey law.

Although schools maintain duties of supervision and care, the Court declined to elevate the relationship to a fiduciary one. As a result, claims asserting breach of fiduciary duty against public school districts are unlikely to succeed, though other theories—such as negligence, negligent supervision, or statutory liability under the CVA—remain viable.

Implications for CVA Litigation

The Court’s decision is expected to have a substantial impact on litigation involving alleged sexual abuse by school employees in New Jersey.

Firstly, claims that previously may have been dismissed early in litigation are more likely to proceed beyond the pleading stage.

Secondly, the opinion is seemingly designed to motivate proactive safeguarding by making and enforcing policies but may have the effect of increasing litigation and defense costs for school districts faced with defending such claims.

Finally, the ruling underscores the significant changes brought about by the Child Victims Act. By removing certain governmental immunities and expanding the ability of survivors to pursue civil claims, the CVA has fundamentally altered the landscape of sexual abuse litigation involving public entities in New Jersey.

Conclusion

The New Jersey Supreme Court's March 11, 2026, decision marks a significant development in the interpretation of the Child Victims Act and the Tort Claims Act.

Going forward, public school districts should anticipate closer judicial scrutiny of the authority granted to school employees, the policies and procedures designed to prevent abuse, and the institutional responses to allegations of misconduct. The decision is likely to influence both pending and future CVA litigation and may shape how courts assess the relationship between institutional authority and employee misconduct in cases involving sexual abuse of students.

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