

OFFICE OF THE GENERAL COUNSEL

Legal Advisory

June 1, 2018

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SUMMARY

California Supreme Court holds that colleges and universities have a special relationship with enrolled students that requires warning or protection from foreseeable violence in the classroom or during curricular activities.

If you have any questions regarding the *Rosen* decision, please contact:

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CALIFORNIA SUPREME COURT HOLDS THAT COLLEGES HAVE A LEGAL DUTY TO PROTECT STUDENTS FROM FORESEEABLE VIOLENCE DURING CURRICULAR ACTIVITIES

On March 22, 2018, the California Supreme Court issued its decision in *Regents of the University of California v. Superior Court ("Rosen")*, holding for the first time that colleges and universities have a special relationship with their students that creates a legal duty to protect them from foreseeable violence during curricular activities.

The lawsuit was brought by former UCLA student Katherine Rosen, who was stabbed by another student in a chemistry classroom in 2009. The student-assailant was receiving treatment at the University, where he had been diagnosed with paranoid delusions and possible schizophrenia disorder but not with an intent to harm others. Nevertheless, Ms. Rosen alleges that the University and several of its employees acted negligently because they knew about the assailant's mental health diagnosis and failed to adequately warn or to protect her.

In finding a legal duty to protect students from foreseeable harm, the Court concluded that college students, although adults, "may still be learning how to navigate the world as adults" and "are dependent on their college communities to provide structure, guidance, and a safe learning environment." In addition, the Court observed that colleges "have superior control over the environment and the ability to protect students" by imposing "a variety of rules and restrictions, both in the classroom and across campus, to maintain a safe and orderly environment."

The *Rosen* opinion is limited in two key regards.

First, the opinion concerns only the duty requirement of a negligence cause of action. The opinion did not define the standard of care; address whether UCLA officials acted reasonably and therefore discharged that duty, or whether there are any applicable immunities under the law. The case has been remanded to the Court of Appeal where those issues will be decided. As set forth in its court filings, the University believes that its actions were reasonable. Ultimately, the reasonableness of any response will be evaluated by comparing what was actually done or not done against what a reasonably prudent person would have done under the same or similar circumstances, taking into account any specialized training or experience.

Second, the legal duty to protect is limited to enrolled students and applies only "while they are engaged in activities that are part of the school's curriculum or closely related to its delivery of educational services." The conduct at issue in *Rosen* occurred in a chemistry laboratory while class was in session, which is undoubtedly a core curricular activity. The Court noted, as a boundary to the college-student relationship, that "many aspects of a modern college student's life are, quite properly, beyond the institution's control" including off-campus behavior and social activities unrelated to school.

We continue to evaluate the implications of the Court's opinion and to monitor any interpretations of the opinion by lower courts. In the meantime, University personnel who support student well-being should continue their efforts to serve the best interests of our students. As always, please reach out to your campus counsel or attorneys in OGC's Oakland office if you have any questions.