

## **School Bullies**

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Although it was unfortunate and irrational what Jeff did, his actions were immature and showed everyone how undisciplined and scared he really was. It was also an atrociously mishandled event by the school and its administrators. There were many things that could have happened if this was handled correctly; for instance, Jeff would not have felt that he had to take matters into his own hands and defend himself against what he had become—the favorite target of “merciless teasing and ridicule.” The school failed to act on several occasions when presented the opportunity. The background information provided is more than enough to show that the school is indeed liable for Tony’s injuries; but not only does the information tell us that the school is liable, it also tells us that Jeff can be convicted if criminal charges are filed against him.

In the school’s case, the root of the problem lies in their neglect to deal with or handle the problem correctly. If the necessary actions or precautions were taken, the whole incident may have been prevented. Section 41-4-2 NMSA 1978 states:

a private party may sue a governmental entity for negligence or other torts, but only within the limitation set forth in the New Mexico Tort Claims Act.”

Section 41-4-3 states that “A public school is a governmental entity within the meaning of this statute.” Section 41-4-5 allows a person to bring a law suit against a governmental entity for bodily injuries, wrongful death caused by the negligence of public employees while acting within the scope of their duties. The last big player in this game against the school would be the *Upton v. Clovis Municipal School District, 2006-NMSC-040*, which state that a person can sue a school district, even if part of the claim was for what could be defined as negligent supervision, if the school failed to follow its safety policies or ignored instructions given by the parents regarding the child’s health. The school failed to do all of these things as they failed to follow school policy which prohibits touching of a sexual nature which also includes pinching, patting or brushing against. There are also other school policies that strictly prohibit students from threatening, name-calling, bullying, assaulting or battering another student. Any such actions can result in suspension or expulsion.

The responsibility falls squarely on the shoulders of Coach Taylor, who failed to respond to Jeff's calls for help, requests for protection, and pleas for the coach to take action and put a stop to this. Coach Taylor ignored policy seeing all these events unfold and took the side of his players when Jeff told him about the inappropriate behavior taking place. The coach responded by telling Jeff to "suck it up" and "be a man." The brushing, taunting, humiliating and finally the hurting of Jeff under the negligent eyes of the coach ultimately led to the untimely snap of Jeff's patience and will to let his superiors handle the situation.

To address the final of the three failed requirements, directions or notification of the parents, Jeff had his parents write a letter to the principal, who did very little. In fact, the bullying not only continued but increased to an intolerable level. All these things show negligence by an employee of a governmental entity, making the school completely eligible for a law suit and proving it liable for Tony's injury.

Unfortunately in Jeff's case, he is not eligible for self defense, seeing as he acted after the event took place out of fear with every intention of hurting the now dormant attacker. He acted offensively, not defensively. Another drawback for Jeff is his stroke was delivered without considering the ramifications of what should happen if he should miss, and he did miss and hit an innocent bystander. With the overwhelming evidence, the witnesses to the event, and the extensive damage to Tony's right hand, Jeff can be charged with many things, although he is most closely eligible for a third degree felony.

According to criminal laws Section 30-3-5 NMSA:

- A. Aggravated battery consists of the unlawful touching or application of force to the person of another with the intent to injure that person or another.
- B. Whoever commits aggravated battery, inflicting an injury to the person which is not likely to cause death or great bodily harm, but does cause painful temporary disfigurement or temporary loss or impairment of the functions of any member or organ of the body, is guilty of a misdemeanor.
- C. Whoever commits aggravated battery inflicting great bodily harm or does so with a deadly weapon or does so in a manner whereby great bodily harm or death can be inflicted is guilty of a third degree felony.

These laws show that the school is liable for Tony's injury, and Jeff is liable for criminal charges. The story also shows what actions a scared and tormented teenager is capable of if the necessary precautions are not taken to make him feel safe. Furthermore, it shows how a simple problem like bullying can turn into a life-threatening situation if not handled correctly.

"Those who have the ability to take action have the responsibility to take action." Unknown