

## **Georgia Court of Appeals Clarifies Limits of Official Immunity for School Administrators** ***Ashley Wilson v. Christina Anderson et al.***

A recent Georgia Court of Appeals ruling clarified the scope of official immunity by emphasizing the responsibility of school officials to fulfill ministerial duties. The court specifically analyzed a school policy that established a ministerial duty to investigate while leaving some discretion to the official as to the manner in which to accomplish the task. School administrators were stripped of their official immunity due to their failure to investigate reports of bullying as required by school policy, amounting to a violation of a ministerial duty.

Under Georgia law, official immunity is afforded to state officers and employees for discretionary acts performed within the scope of their role in the absence of malice or actual intent to injure. This immunity, however, does not exist for ministerial acts. A discretionary duty requires the exercise of personal deliberation and judgment. Reaching reasoned conclusions, the actor carries out the duty in a way not specifically directed. The Supreme Court of Georgia has defined ministerial acts: “[they are] simple, absolute, and definite, arising under conditions admitted or proved to exist, and requiring merely the execution of a specific duty.” Ministerial duties may be established through written or unwritten policies, specific directives, or a statute. Where the means by which the execution of a specific task is left to the actor’s discretion, the execution is nevertheless characterized as ministerial.

In this case, the court determined that the school’s bullying policy created a clear, non-discretionary obligation for administrators to investigate all reports of bullying. The policy, however, did not specify how the investigation should proceed. The administrators received multiple credible reports from school resource officers about a student bringing a knife to school and making violent threats. The same student later carried out a violent attack against a classmate. At no point prior to the attack did the administrators investigate the reports or conduct a search, as required by the policy. While the administrators had discretion in how to conduct the investigation, they were nonetheless obligated to initiate one.

This ruling serves as a reminder that school officials must not only be aware of their ministerial duties but also must act swiftly and decisively in fulfilling them. While discretion may be granted in the execution of certain policies, the obligation of complying with the policies remain. Otherwise, official immunity may be stricken.

*The foregoing is not intended to be a comprehensive analysis of the full effect of these changes. Nothing in this notice should be construed as legal advice. This document is intended only to notify our clients and other interested parties about important recent developments. Every effort has been made to ascertain the accuracy of the information contained within this notice.*