

NEW YORK COURT OF APPEALS

Sagal-Cotler v. Board of Education of the City School District

20 N.Y.3d 671 (2013) · Decided April 25, 2013

SUMMARY

The New York Court of Appeals held that New York City Department of Education employees accused of using corporal punishment were entitled to a defense funded by the City under Education Law § 3028, even though their conduct violated a state regulation. The court concluded that the statutory requirement that conduct occur in the discharge of employment duties did not limit the defense obligation to lawful or regulation-compliant conduct.

CASE DETAILS

COURT	New York Court of Appeals
WRITING FOR THE COURT	Smith, J.; Chief Judge Lippman; Judge Graffeo; Judge Read; Judge Pigott; Judge Rivera
JURISDICTION	New York
DECIDED	April 25, 2013
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Petitioners commenced proceedings to annul the City of New York's determinations denying their requests for a defense in civil actions alleging corporal punishment of students. The Court of Appeals reviewed two Appellate Division orders, one reversing an order granting relief and the other affirming dismissal, on appeals as of right under CPLR 5601(a).
STANDARD OF REVIEW	The Court of Appeals reviewed the statutory interpretation question and the challenged administrative determinations in proceedings to annul agency action.
PRECEDENTIAL VALUE	Published opinion of the New York Court of Appeals; precedential.
PARTIES	Sagal-Cotler, Thomas v. Board of Education of the City School District of the City of New York, City of New York

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QUESTIONS PRESENTED

1. Whether Education Law § 3028 requires the City to provide a defense to school employees sued for corporal punishment even when the conduct violated a state regulation.
2. Whether the phrase "while in the discharge of his duties within the scope of his employment" in Education Law § 3028 limits the defense obligation to conduct that complied with the employer's rules and regulations.
3. Whether General Municipal Law § 50-k(2) supersedes or limits petitioners' independent right to a defense under Education Law § 3028.

HOLDINGS

1. Education Law § 3028 requires the City to provide a defense to employees sued for conduct arising from disciplinary action against a pupil, even when the employee's use of corporal punishment violated an applicable rule or regulation.
2. An employee may act in the discharge of duties and within the scope of employment for purposes of Education Law § 3028 even when the employee acts irregularly or violates employer regulations, so long as the conduct is within the scope of employment.

KEY QUOTATIONS

"Notwithstanding any inconsistent provision of any general, special or local law, or the limitations contained in the provisions of any city charter, each board of education, trustee or trustees in the state shall provide an attorney or attorneys for, and pay such attorney's fees and expenses necessarily incurred in the defense of a teacher, member of a supervisory or administrative staff or employee . . . in any civil or criminal [sic] action or proceeding arising out of disciplinary action taken against any pupil of the district while in the discharge of his duties within the scope of his employment" (675)

"Thus we do not read the statutory words "discharge of . . . duties" to restrict the right to a defense to cases where an employee acted in the proper and lawful discharge of his or her duties." (676)

FACTUAL BACKGROUND

Both petitioners were paraprofessionals employed in New York City schools and were sued by students who alleged that petitioners used corporal punishment. Sagal-Cotler admitted slapping a student after the student repeatedly refused to go to the cafeteria; in Thomas, a principal found substantiated an allegation that Thomas hit a student on the head, and that finding was not challenged. The conduct violated the Board of Regents'

regulation prohibiting corporal punishment, but the City did not dispute that petitioners acted within the scope of their employment.

PROCEDURAL HISTORY

In *Sagal-Cotler*, Supreme Court granted the requested relief, but the Appellate Division reversed and dismissed the proceeding. In *Thomas*, Supreme Court dismissed the proceeding, and the Appellate Division affirmed. The Court of Appeals reversed both Appellate Division orders, annulled the challenged determinations, and remitted the matters to Supreme Court, New York County, for further proceedings.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

In each case, reverse the Appellate Division order with costs, annul the challenged determination, and remit the matter to Supreme Court, New York County, for further proceedings in accordance with the opinion.

CASES CITED

- *Riviello v Waldron*, 47 N.Y.2d 297, 302 (1979)
- *Joseph v City of Buffalo*, 83 N.Y.2d 141, 145 (1994)
- *Matter of Williams v City of New York*, 64 N.Y.2d 800, 802 (1985)
- *Lundberg v State of New York*, 25 N.Y.2d 467, 470 (1969)

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