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FUNDRAISING COMPANIES CAN BE LIABLE TO STUDENTS

School fundraising activities are often managed by private companies that specialize in providing fundraising products to schools and other community organizations. After a 10 year old girl was assaulted and seriously injured while selling fundraising products in her Pennsylvania neighborhood, her parents sued the school district and the fundraising companies involved in the project. The suit against the school district was dismissed, but the Pennsylvania Supreme Court ruled that the private companies must go to trial on their liability for the child's injuries.

All students from kindergarten through fifth grade in the child's elementary school attended a fundraising meeting. The meeting was conducted by a management employee of one of the fundraising companies. The employee displayed and described the prizes available to the students and gave the students free gel pens to generate enthusiasm for the fundraising competition. Separate prizes for the highest selling students and classes were also displayed. Promotional materials were distributed, but none of the materials contained any warnings or safety guidelines regarding the fundraising project. Some of the guidelines actually contradicted the school's published policies about sales by students.

Determined to make 50 sales in order to win a green inflatable chair, the girl threw herself into the fundraising project. Needing only four more sales to reach her goal, the

child disregarded her parents' instructions and approached a man mowing the yard of a nearby house. Following the initial sales pitch described in the promotional materials, the child asked the man whether he would like to buy some candy for a school fundraiser. He took her inside the house and assaulted her.

School districts are generally immune from most lawsuits, and the parents' claims against the school district were dismissed. But the Pennsylvania Supreme Court held that the private fundraising companies could be held liable for the child's harm. Because the fundraising materials did not contain any safety warnings and actually contradicted warnings from the school and the child's parents, and because the companies created intense competition for prizes, the court found that the parents were entitled to have a jury decide if the companies were legally liable.

School fundraisers used to be simpler. Now, schools sell not only candy, but cookbooks, magazines, books, gourmet groceries, and household goods. If your children are participating in school fundraisers, be sure to review the materials they bring home and discuss with them their desire to win the competition's prizes. You can help your children better understand the effects of sophisticated marketing and perhaps reduce their desire for prizes. Consider accompanying your children on all sales calls to be sure they do not disregard your

safety instructions. Finally, share your safety concerns with your school district to be sure

that the sales pitch directed at the students includes firm and clear safety advice.

SCHOOL ATTENDANCE LAW IN PENNSYLVANIA

The Pennsylvania Code distinguishes between when children may attend school and when they must attend school. The Code mandates that children must attend school, or receive appropriate home schooling, from the age of 8 until the age of 17. Children may attend public school from the earliest admission age in their district until the age of 21, or graduation from high school, whichever occurs first. A district is entitled to set the earliest admission age for its schools and must continue to offer public schooling to a child who has not graduated until the “child” is 21.

The Pennsylvania School Code calls for the prosecution of “every parent, guardian, or person in parental relation, having control or charge of any child or children of compulsory school age, who shall fail to comply with the provisions of this act regarding compulsory attendance.” When an adult responsible for a child does not manage to get the child to school regularly, he or she may be prosecuted for truancy and can be sentenced to pay a fine of up to \$300. Parents and responsible adults also may be sentenced to complete community service or to attend a parenting education program.

A parent or responsible adult who is sentenced on a truancy charge may be sent to jail for up to five days if he or she fails to comply with the sentencing order. Parents and responsible adults charged with truancy can avoid any penalties by showing that they

took “every reasonable step” to ensure the attendance of the child at school. Children over the age of 13 can be charged with truancy and can be held responsible for paying fines or for attending alternative education programs. Children who are “habitually truant” also may be declared by the courts to be “dependent” children and can be placed in foster care.

The Pennsylvania Code permits absences that are necessary due to physical or mental health issues and permits limited excuses for medical appointments, educational trips, and approved part time work. Each school district is required by law to provide parents and students with a written attendance policy. If you have school age children, make sure you are familiar with your school district’s attendance policies. Provide detailed, written notices regarding your children’s absences and follow up with the school if you receive any notices that your child’s absences are considered unexcused or unjustified.

Because state funding of local schools is tied to the regular attendance of all enrolled public school students, you may find that your school district is proactive when it comes to truancy prosecutions. Before finding yourself the defendant in a truancy case, be sure that you can prove that you have taken all reasonable steps necessary to keep your children attending school regularly.

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