

E&O Policies Cover School Board-Policyholder in Sexual Abuse Case

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In an unreported decision, a New York appellate court has determined that E&O policies issued to a school board provide coverage for allegations of negligent hiring and supervision of an employee who engaged in intentional sexual abuse even though the policies did not afford coverage for intentional sexual abuse. *ACE Fire Underwriters Ins. Co. v. Orange-Ulster Bd. of Coop. Educ. Servs.*, 2003 WL 22810333 (N.Y. App. Div. Nov. 24, 2003).

Two insurers issued E&O policies to a county school board. A third-party claimant sued the school board alleging claims of negligent hiring and supervision arising out of the sexual abuse of a student. The insurers sought to deny coverage on the grounds that intentional sexual abuse was not covered under the policies.

The appellate court, relying on the prior decision of the New York Court of Appeals in *Watkins Glen Central School District v. National Union Fire Insurance Co.*, 286 A.D.2d 48 (N.Y. 2001), held that coverage was available. The court first noted that E&O policies are designed to provide coverage for liability arising out of a policyholder's negligent actions "inherent in the practice of that particular profession or business." The court then stated, without explanation, that the allegations of negligent hiring and supervision fell "squarely within the errors and omissions policies issued," and therefore, the policies afforded coverage to the school board.

For more information, please contact us at 202.719.7130.