

TO: DEAN FIDES CORDERO-TAN

FROM: MICHAEL T. TIU, JR.

RE: LIABILITY OF TEACHERS AND UNIVERSITIES

Query: Schools and universities have shifted to remote teaching and learning which require the availability of appropriate technological infrastructure and facilities to facilitate instruction. In the event that a student travels to a third-party provider (e.g. internet cafe) to attend an online class and is injured in the process, is the teacher, school, or university liable for the injury?

Opinion:

No. The teacher, school, or university are not liable if the student was not forced (by explicit instruction or policy) to travel to the provider (an internet café, for example) or if access to that particular facility is not mandatory. In other words, traveling to the provider or facility was a choice the student made.

In this context, a position may be taken that there is a breach of contract between the university and the student as case law has recognized that, in that contract, the university has an “implicit or ‘built-in’ obligation of providing their students with an atmosphere that promotes or assists in attaining its primary undertaking of imparting knowledge.”¹ This position is not tenable because it contemplates a situation wherein there is a physical space in which students are required to be present. However, that is not the case in remote learning. There is no prescribed way to access the digital space, and how students are able to obtain such access is the result of their choice of facilities. Thus, unlike a physical campus where there is a clear obligation of the university to provide effective security measures, the sheer expanse of and variety of tools in the remote learning environment cannot be fully controlled, so that it does not allow the university to institute security measures apart from the usual warnings.

An argument for liability may also be anchored on the special parental authority granted, in the Family Code, to schools, administrators, and teachers for minor students in their supervision, custody, or instruction. The response to this argument is layered. First, it does not apply to law students or students who have attained the age of majority. This applies only to minor students or those undergraduate students who are below 18 years old. Further, even if applicable as to subject, it will require a construction of custody or instruction to cover remote learning. In any case, it also has to be shown that the injury was caused by the university’s negligence which is not the case if the travel to the provider was not required or mandatory.

The regime of vicarious liability under Article 2180 of the Civil Code does not apply because that contemplates a situation wherein the injury is caused by the student.

¹ *Philippine School of Business Administration v. Court of Appeals, et. al.*, G.R. No. 84698, 04 February 1992.