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In The Supreme Court of Iowa

No. 25-0516
Polk County Case No. LACL153362

JODI E. SAFRIS and MICHAEL A. SAFRIS,
individually and as Co-Guardians and
Co-Conservators for R.R.S.,
Plaintiffs-Appellants,

v.

URBANDALE COMMUNITY SCHOOL DISTRICT,
Defendant-Appellee.

APPEAL FROM THE IOWA DISTRICT COURT
FOR POLK COUNTY
THE HONORABLE SAMANTHA GRONEWALD

Court of Appeals Decision Filed June 10, 2026

PLAINTIFFS-APPELLANTS' RESISTANCE TO APPLICATION FOR FURTHER REVIEW

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QUESTIONS PRESENTED FOR REVIEW

1. Should the Court grant further review of the court of appeals' application of this Court's settled standard of care for school districts, announced in *Burton v. Des Moines Metropolitan Transit Authority* and applied for thirty years, to a preserved jury-instruction record?

2. Does *Doe v. Western Dubuque Community School District*, a fiduciary-duty decision on a motion to dismiss that involved no jury instruction and never cited *Burton*, conflict with the decision below?

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STATEMENT RESISTING FURTHER REVIEW

The court of appeals corrected a preserved instructional error under standards this Court settled three decades ago. Plaintiffs asked the district court to instruct the jury on the standard of care Iowa law imposes on school districts: that a school is "charged with the care and control of children," must exercise "the same standard of care toward them that a parent of ordinary prudence would observe in comparable circumstances," and has "an affirmative duty to take all reasonable steps to protect its students from risks that arise within the scope of school-student relationships." D0397, Plaintiffs' Amended Proposed Jury Instructions, at 26 (10/14/2024); *see Burton v. Des Moines Metro. Transit Auth.*, 530 N.W.2d 696, 700 (Iowa 1995); *A. Doe v. Cedar Rapids Cmty. Sch. Dist.*, 652 N.W.2d 439, 446 (Iowa 2002); *Godar v. Edwards*, 588 N.W.2d 701, 708 (Iowa 1999). The district court refused that instruction and defined Urbandale's obligations for the jury only through the generic "reasonably careful person" definition. The court of appeals held the refusal was error and that the error required a new trial. That holding applies settled law. It does not change it.

Nothing in Iowa Rule of Appellate Procedure 6.1103(1)(b) supports further review. Further review "is not a matter of right, but of judicial discretion," and an application "will not be granted in normal circumstances." Iowa R. App. P. 6.1103(1)(b). There are several circumstances the Court can consider when

deciding to take a case on further review, including whether the decision below conflicts with precedent on an important matter, decides a question that should be settled by this Court, presents an important question of changing legal principles, or raises an issue of broad public importance. *Id.* The decision below does not conflict with *Doe v. Western Dubuque Community School District*, 20 N.W.3d 798 (Iowa 2025), which held that schools do not owe students fiduciary duties and did not address jury instructions. The standard of care school districts owe their students is not an unsettled or changing legal principle; the Restatement (Third), which Urbandale invokes, itself recognizes the school-student special relationship and the affirmative duty of reasonable care that flows from it. Restatement (Third) of Torts: Liability for Physical and Emotional Harm § 40(a), (b)(5) (Am. L. Inst. 2012). And Urbandale's harmless-error theory fails on this record: the jury instructions never told the jury that Urbandale owed its students an affirmative protective duty, and that omission is the most natural explanation for the verdict the jury returned, finding Urbandale at fault while declining to connect that fault to R.R.S.'s injuries. The application should be denied.

ARGUMENT

I. THE INSTRUCTIONAL ERROR WAS NOT HARMLESS: THE INSTRUCTIONS NEVER GAVE THE JURY THE SCHOOL'S AFFIRMATIVE PROTECTIVE DUTY, AND THE SPLIT VERDICT REFLECTS THAT OMISSION.

K.O.'s individualized education program required his teachers to check on him at least every seven minutes of class time. He sat immediately beside R.R.S. in their shared language-arts classroom. There, R.R.S. testified, he sexually assaulted her nearly every day, ultimately by digital penetration, and he stopped when a teacher approached and resumed when the teacher left. D0569 at 111:11-25. The jury found Urbandale at fault. D0545, Verdict (11/8/2024). It then answered "No" to whether Urbandale's fault was a proximate cause of any item of R.R.S.'s damages. *Id.* Urbandale argues the error was harmless because the jury found Urbandale at fault yet answered "No" on proximate cause: since Plaintiffs prevailed on the fault question, Urbandale claims that providing a correct standard-of-care instruction could not have changed the outcome. Application at 13. The argument reads the verdict backwards. An incomplete set of instructions produced an inconsistent verdict.

A. The instructions defined Urbandale's obligations only in generic terms and never conveyed its affirmative duty to protect students.

Urbandale's harmless-error theory begins from the premise that the instructions, read as a whole, adequately conveyed Urbandale's duties. Application at 12-13. The instructions show otherwise. Instruction 17 defined negligence as "failure to use ordinary care," and told the jury that "[o]rdinary care is the care which a reasonably careful person would use under similar circumstances." D0544, Jury Instructions, at 19 (11/8/2024). The marshalling instruction framed each of the seven specifications of fault the same way: "failing to exercise reasonable care" to prevent, protect, supervise, ensure, or enforce. D0544 at 17. A specification of fault is an accusation to be measured against a standard; the only standard the instructions supplied was Instruction 17's "reasonably careful person." Instruction 27 described what federal law requires in an individualized education program, but it said nothing about the standard of care. D0544 at 30. No instruction told the jury what Plaintiffs' refused Instruction 23 would have told it: that Urbandale stood in a custodial relationship with R.R.S., that it was required to act as a parent of ordinary prudence would in comparable circumstances, and that it bore an affirmative duty to take all reasonable steps to protect her from risks arising within the school-student relationship.

The omitted content is not ornamental. Ordinary negligence law imposes no duty to protect another from harm inflicted by third parties. The school-student relationship does. *See Brokaw v. Winfield-Mt. Union Cmty. Sch. Dist.*, 788 N.W.2d 386, 390-91 (Iowa 2010) ("[S]chool districts have a duty of reasonable care in providing for the safety of students from the harmful actions of fellow students, a teacher, or other third persons."); Restatement (Third) § 40(a), (b)(5) (affirmative duty of reasonable care arises from the special relationship of "a school with its students"). The specifications asked the jury whether Urbandale had failed to use reasonable care in protecting R.R.S.; no instruction told the jury that the law imposed on Urbandale an affirmative obligation to protect her. Urbandale itself concedes that "[t]he only difference between the 'prudent parent' standard and the negligence standard provided to the jury is that schools owe a duty to protect students from harms from third-parties," Application at 11, and that difference is the very thing the jury never heard.

B. Urbandale's "no magic words" argument answers a different objection.

Urbandale argues the court of appeals' decision rests on a demand for "magic words" and that no particular phrasing is required so long as the instructions cover the applicable law. Application at 9. Plaintiffs agree that no magic words are required and that courts "do not require perfection" in jury

instructions. *Rivera v. Woodward Res. Ctr.*, 865 N.W.2d 887, 902 (Iowa 2015). The problem here is of a different kind: the subject was never covered. The issue the court of appeals identified was the absence of the affirmative protective duty itself. No other instruction supplied it. Urbandale's bus-operator analogy proves the point: the instruction approved in *Delaney* told the jury to measure the defendant's conduct against "the care that an ordinary prudent bus operator would exercise," a formulation anchored to the actor's custodial role as a bus operator. *Delaney v. Bogs*, No. 14-2150, 2015 WL 7175815, at *16 (Iowa Ct. App. Nov. 12, 2015). Instruction 17 gave this jury no comparable anchor. The defect here was omission, not word choice. An instruction that never states the school's affirmative duty cannot be defended as a differently worded version of it. Nor can trial testimony and argument supply what the instructions withheld. Urbandale insists the jury understood its protective role anyway because both standard-of-care experts and counsel's arguments addressed it. Application at 11-12. The jury takes the law from the court's instructions, not from witnesses. *Boyle v. Alum-Line, Inc.*, 710 N.W.2d 741, 749 (Iowa 2006) (instructions "must convey the applicable law" to the jury). Further, the testimony Urbandale invokes to support its proposition that the witnesses were providing the standard of care includes the standard-of-care opinions by Urbandale's expert that the Court of Appeals held crossed into

inadmissible legal conclusions and directed the district court to limit on retrial. Opinion at 14-15.

C. The omission adversely affected the jury's causation answer.

Instruction 16 gave the jury seven specifications of fault. D0544 at 17. Urbandale offers two reasons the refused instruction could not have affected the outcome: those specifications, together with Instruction 27, already told the jury what Urbandale was required to do, Application at 12-13, and Plaintiffs "prevailed" on fault in any event, Application at 13. The first is answered in Part I.A above: the specifications supplied accusations, not a standard, and the only standard the jury received was Instruction 17. As for the second, Plaintiffs' position below was, and remains, that on this record every specification in Instruction 16 carries causation with it. But even on Urbandale's reading of the verdict, the missing instruction explains the result. Once a jury learns of the school's affirmative protective duty, it has reason to assign Urbandale's fault to the conduct that duty was meant to prevent: the failure to supervise and protect R.R.S. from a sexual assault in class. A jury that hears only the "reasonably careful person" standard has no such reason to connect the fault to Urbandale.

On the protective specifications, causation was direct. R.R.S. testified that K.O. stopped when a teacher approached and resumed when the teacher left, in a classroom where K.O.'s individualized education program already required adult

contact every seven minutes. D0569 at 111:11-25. Plaintiffs' refused instruction is what tells a jury that these protective failures are the school's responsibility, that a school's duty extends beyond avoiding careless acts to taking affirmative steps to protect the child in its care. Without it, no instruction connected Urbandale's obligations to the harm K.O. inflicted while the adults required to check on him every seven minutes were elsewhere.

Jury instructions must convey the applicable law so that the jury has a clear understanding of the issues it must decide. *Boyle*, 710 N.W.2d at 749. These instructions did not. They never stated the standard of care that governs a school's duty to its students. When Iowa courts have excused the failure to give a requested instruction, it is because the jury had already been given the governing standard, or because the verdict made the omitted issue irrelevant. *See, e.g., Mumm v. Jennie Edmundson Mem'l Hosp.*, 924 N.W.2d 512, 520 (Iowa 2019) (no prejudice where the jury's no-negligence finding mooted the omitted allocation instruction). Neither is true here. No Iowa civil case holds harmless the refusal to give the governing standard of care itself. And unlike *Mumm*, where the jury never reached the issue the omitted instruction addressed, this jury answered the very questions that the prudent-parent standard governs. Nor does the jury's fault finding show the instructions were adequate. It shows only that Urbandale's conduct fell short of even the weaker standard the jury was instructed on. What the missing instruction

affected was which failures the jury connected to R.R.S.'s injuries, the very question on which Plaintiffs lost.

II. WESTERN DUBUQUE DECIDED A DIFFERENT QUESTION REGARDING FIDUCIARY DUTIES IN SCHOOLS, AND THE STANDARD OF CARE SCHOOLS OWE STUDENTS IS NOT UNSETTLED.

A. *Western Dubuque* held that schools owe no fiduciary duty; it did not address the standard of care in jury instructions.

Urbandale is misguided in its claims that *Western Dubuque* "unequivocally" established ordinary care as the standard schools owe students, so the decision below conflicts with it. Application at 5, 8. It does not. *Western Dubuque* reached this Court on a pre-answer motion to dismiss. The Court reversed the dismissal of the plaintiffs' negligence and consortium claims and affirmed dismissal of one count only: breach of fiduciary duty. 20 N.W.3d at 811-12. In doing so, it explained that "[w]hile schools, school officials, and teachers have a duty to exercise reasonable care with respect to students, they do not generally have fiduciary relationships with students." *Id.* at 812. The case involved no trial, no jury, and no jury instruction. The opinion does not cite *Burton*, does not discuss the content of the reasonable-care duty it acknowledged, and reinstated the negligence claim without adjudicating it.

Urbandale reads the words "ordinary care" in that passage as silently displacing the parental-prudence formulation this Court announced in *Burton* and has applied ever since. The choice between instructing a jury with the generic "reasonably careful person" definition or with the school-specific standard was not presented, briefed, or decided in *Western Dubuque*. The phrase Urbandale isolates distinguished tort duty from fiduciary duty, nothing more. There is no conflict within the meaning of rule 6.1103(1)(b)(1), the ground for further review where "[t]he court of appeals has entered a decision in conflict with a decision of the supreme court or the court of appeals on an important matter."

B. The school standard of care has been settled since *Burton* and was not disturbed by the Restatement (Third).

Urbandale alternatively casts the duty schools owe students as a changing legal principle, arguing the adoption of the Restatement (Third) unsettled the standard. Application at 5-6. The opposite is true. For thirty years this Court has told Iowa's school districts the duty they owe the children in their charge: "the same standard of care toward the children that a parent of ordinary prudence would observe in comparable circumstances." *Burton*, 530 N.W.2d at 700. The Court repeated the standard in *Godar*, 588 N.W.2d at 708, grounded an affirmative protective duty on it in *A. Doe*, 652 N.W.2d at 446-47, and applied it in *Ette ex rel. Ette v. Linn-Mar Cmty. Sch. Dist.*, 656 N.W.2d 62, 69 (Iowa 2002). After

Thompson v. Kaczinski, 774 N.W.2d 829 (Iowa 2009), which adopted the principles of the Restatement (Third), this Court confirmed that "school districts have a duty of reasonable care in providing for the safety of students from the harmful actions of fellow students, a teacher, or other third persons." *Brokaw*, 788 N.W.2d at 390-91. Urbandale claims that adoption of the Restatement (Third) changed the standard schools owe their students, but in fact it did the opposite. Section 40(b)(5) of the Restatement (Third) lists "a school with its students" among the special relationships giving rise to an affirmative duty of reasonable care.

In the sixteen years since *Thompson*, no decision of this Court has questioned the parental-prudence standard, and Urbandale cites none. There is no confusion in Iowa's courts for further review to dispel. The Court of Appeals remanded for a new trial under the standard Iowa courts have applied since 1995. Nor does this case present an important question of changing legal principles under rule 6.1103(1)(b)(3), which asks whether "[t]he court of appeals has decided a case where there is an important question of changing legal principles." The principle governing schools has not changed since *Burton*, and Urbandale's disagreement with a settled standard does not make the standard unsettled.

III. THE COURT OF APPEALS CORRECTLY APPLIED THE RULE THAT A TRIAL COURT MUST GIVE A REQUESTED INSTRUCTION THAT CORRECTLY STATES THE LAW.

Urbandale last argues the court of appeals reversed without analyzing prejudice and warns that the decision makes any instructional misstatement automatically reversible. Application at 6, 12. Neither assertion is accurate. This is a refused-instruction case, and the refusal was not the district court's to make. A trial court must give a requested jury instruction "if it correctly states the applicable law and is not embodied in other instructions." *Sonnek v. Warren*, 522 N.W.2d 45, 47 (Iowa 1994); *accord DeBoom v. Raining Rose, Inc.,* 772 N.W.2d 1, 5 (Iowa 2009). The requirement "is mandatory and leaves no room for trial court discretion." *Alcala v. Marriott Int'l, Inc.*, 880 N.W.2d 699, 707 (Iowa 2016). Plaintiffs' Proposed Instruction 23 stated the law in this Court's own words. It plainly applied to a classroom assault by a student the school was obliged to monitor. And as shown above, no other instruction embodied its content. Plaintiffs requested both the generic definition and the school-specific standard, D0397 at 25-26, and objected when the court refused the latter, D0575 at 117:25-120:14.

The refusal left the jury without the governing standard of care. Instruction 17 was a correct statement of general negligence law, and Plaintiffs do not contend otherwise; the error was leaving it to stand alone, without the school-specific

standard Plaintiffs requested. Under Urbandale's own lead authority, "[p]rejudice occurs and reversal is required if jury instructions have misled the jury, or if the district court materially misstates the law." *Rivera*, 865 N.W.2d at 892. Instructions that omit the governing standard of care mislead the jury even when each instruction given is, standing alone, correct. The court of appeals did exactly what this Court's cases direct. There is nothing in the decision below that requires correction, and nothing that warrants this Court's further review.

CONCLUSION

The court of appeals applied settled law to a preserved instructional error and ordered a new trial, at which the jury will be told what this jury was not: that Urbandale owed R.R.S. an affirmative duty to protect her, so that its supervision and protection failures are measured against that duty rather than treated as unconnected lapses. The application identifies no conflict with this Court's precedent, no unsettled question of law, and no reason this case requires the Court's intervention. Plaintiffs-Appellants respectfully request that the Court deny the application for further review.

Respectfully Submitted,

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CERTIFICATE OF COMPLIANCE WITH TYPEFACE REQUIREMENTS AND TYPE-VOLUME LIMITATION

This resistance complies with the typeface and type-volume requirements of Iowa R. App. P. 6.1103(5) because this resistance has been prepared in a proportionally spaced typeface using Times New Roman in 14-point font, and contains 2,835 words, excluding the parts of the resistance exempted by Iowa R. App. P. 6.1103(5)(a).

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CERTIFICATE OF FILING AND SERVICE

I, Myles D. Young, hereby certify that on the 9th day of July, 2026, I electronically filed the foregoing Plaintiffs-Appellants' Resistance to Application for Further Review with the Clerk of the Iowa Supreme Court using the Electronic Document Management System, which will serve notice of electronic filing upon the following counsel for Defendant-Appellee. Pursuant to Iowa Rule of Electronic Procedure 16.317(1)(a)(2), this constitutes service for purposes of the Iowa Court Rules.

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