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## Higher Education Alert

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### **Washington Supreme Court recognizes special relationship duty between university and fraternity**

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A split Washington State Supreme Court recognized a special relationship duty between universities and fraternities, amid new Clery Act hazing obligations.



#### **What's the impact?**

- The Washington Supreme Court ruled that a university's recognition, oversight, and disciplinary authority over a fraternity created a "special relationship" and a duty of reasonable care to a student who died after a hazing incident.
- The duty arose from the university's relationship with the fraternity—not the student—an approach that could extend to student clubs, athletic programs, vendors, study abroad providers, and other recognized third parties.
- The decision comes as institutions continue to implement last year's Clery Act hazing requirements under the Stop Campus Hazing Act, heightening scrutiny of how universities track, report, and respond to organizational misconduct.

On July 30, 2026, the Washington Supreme Court issued a split decision addressing institutional responsibility for hazing and alcohol-related misconduct involving recognized fraternities. The decision continues to evolve the legal framework of special relationships, and comes as colleges and universities continue to strengthen hazing prevention programs, implement new federal requirements under the Stop Campus Hazing Act, and respond to increasing public and regulatory scrutiny of misconduct by student organizations.

In the case of *Martinez & Houtz v. Washington State University*, the Washington Supreme Court held that Washington State University (WSU) owed a legal duty of reasonable care to a first-year student who died from acute alcohol intoxication the morning after a fraternity event. This duty arose from WSU's relationship with a recognized fraternity, not because of a general university-student relationship, but because of the university's oversight, recognition, and disciplinary authority over the organization. The Supreme Court affirmed the Court of Appeals' reversal of summary judgment in favor of WSU and remanded the case for further proceedings regarding breach, causation, and damages.

Notably, the decision of the Court was divided. Four justices dissented, cautioning that the majority's approach could transform ordinary institutional oversight intended to promote student safety into a basis for tort liability for the independent conduct of third parties, especially relating to off-campus conduct. The competing opinions highlight the continuing debate over where courts should draw the line between responsible institutional oversight and assumption of legal responsibility, where questions of foreseeability and an appropriate scope of a duty can be highly fact-specific and implicate public policy concerns.

Although *Martinez* is a Washington State decision, the analysis will be relevant to institutions nationwide as courts continue to examine when university involvement with student organizations, vendors, athletic programs, study abroad providers, and other affiliated entities creates legally enforceable duties. Nationally, the scope of a college or university's special relationship duty to its students requires careful monitoring and consideration in strategic planning and risk mitigation.

## Key facts

In 2019, a 19-year-old first-year student at WSU died from acute alcohol intoxication following a "Big-Little" fraternity initiation event held by recognized WSU fraternity Gamma Chi, the local chapter of Alpha Tau Omega Fraternity, Inc.

The Supreme Court emphasized evidence demonstrating that WSU had recognized elevated risks associated with alcohol misuse and hazing within its Greek community. Among the relevant factors in the foreseeability analysis, WSU had:

- / identified fraternity members and first-year students as particularly vulnerable populations

through a presidential task force;

- / investigated and sanctioned prior misconduct involving Gamma Chi and other fraternities, including a 2018 membership review at Gamma Chi which saw 38 members expelled; and
- / required recognized fraternities to enter into comprehensive recognition agreements incorporating university standards of conduct, risk-management obligations, advisor oversight, and an escalating system of institutional sanctions.

These facts formed the backdrop for the Court's divided, *en banc* analysis of whether WSU had assumed sufficient responsibility over the fraternity to owe a duty of reasonable care.

## The Court's majority holding

After the trial court ruled that WSU did not owe any duty to the student, the Court of Appeals reversed, holding that WSU did owe the student a duty of care because of its special relationship with Gamma Chi. The issue raised to the Supreme Court then was whether WSU had a special relationship with Gamma Chi, establishing a duty to protect the student from foreseeable harm caused by the fraternity, an issue of first impression under state law. The Court further necessarily analyzed whether WSU had a duty to take reasonable steps to ensure that fraternities in general, and Gamma Chi in particular, adhered to rules that WSU imposed on fraternities to prevent this type of incident from happening.

The Court concluded that WSU's relationship with Gamma Chi constituted a "special relationship" under Restatement (Second) of Torts §315(a), giving rise to a duty to take reasonable steps to protect foreseeable victims (including fraternity pledges) from foreseeable harms caused by the fraternity.

In reaching that conclusion, the Court emphasized that:

- / university recognition provided substantial benefits to the fraternity;
- / recognition was conditioned on compliance with university rules and standards;
- / the university retained authority to investigate misconduct and impose escalating sanctions;
- / the university personnel maintained ongoing oversight of fraternity operations; and
- / the university possessed extensive institutional knowledge regarding hazing and alcohol-related risks within its fraternity community.

The Court explained that absolute control was unnecessary. Rather, the combination of oversight, accountability, and disciplinary authority was sufficient to establish the special relationship contemplated by §315(a). The Court also relied on considerations of logic, common sense, justice, and public policy, including Washington's anti-hazing statutes and the Legislature's enactment of "Sam's Law," passed in the wake of the student's death.

Importantly, the Court expressed no opinion regarding whether the university breached its duty. Questions regarding breach, causation, and damages remain for the trial court, so no final liability analysis has occurred and the university may raise its defenses in the remanded proceedings.

## **Distinguishing *Barlow***

The Court carefully distinguished its earlier decision in *Barlow v. State*, in which it declined to recognize a general special relationship between universities and students. *Martinez*, the Court explained, recognizes a different source of duty. The Court emphasized that the relevant relationship is between the university and the actor alleged to have caused the harm, here the recognized fraternity, not between the university and the injured student. This distinction may become important in future litigation involving other recognized student organizations over which institutions exercise comparable oversight.

## **The dissent**

Although the majority concluded that WSU's relationship with Gamma Chi created a special relationship under §315(a), the four-member dissent took a different view of the university's role and the scope of its duties.

In the dissent's view, the university's recognition of fraternities, adoption of conduct standards, educational programming, and disciplinary authority reflected efforts to promote student safety, not the type of custodial or supervisory control traditionally required to impose an affirmative duty to protect individuals from the acts of third parties. The dissent emphasized that the university neither controlled Gamma Chi's day-to-day operations nor had the practical ability to prevent the hazing event that resulted in the student's death.

The dissent also expressed concern that the majority's reasoning could create unintended consequences by exposing institutions to greater liability precisely because they adopted robust oversight and risk-management programs. In essence, expanding duties in this manner could discourage universities from implementing proactive safety measures.

## **Implications for colleges and universities**

Although *Martinez* creates a duty under Washington law, institutions nationwide should consider whether existing governance and oversight practices accurately reflect the responsibilities they have assumed with respect to recognized student organizations.

**Recognition agreements deserve renewed attention** The Court repeatedly relied on WSU's signed agreements with the fraternity, including conduct standards, reporting obligations, and sanctioning authority, in finding a special relationship. Institutions should review recognition and

affiliate agreements to ensure expectations, reporting obligations, risk-management requirements, and disciplinary provisions accurately reflect institutional practice and can be consistently enforced.

**Foreseeability depends on institutional knowledge.** A central theme of the Court's analysis was WSU's accumulated knowledge regarding risks within its fraternity community. Institutions should evaluate how reports concerning hazing, alcohol misuse, student organization misconduct, housing concerns, campus safety incidents, and other relevant information are collected, tracked, escalated, and appropriately shared among Student Affairs, Student Conduct, Fraternity and Sorority Life, Campus Safety, the Office of General Counsel, and other appropriate institutional offices.

**Review hazing prevention programs.** The decision also arrives as institutions continue implementing the Stop Campus Hazing Act and complying with evolving state anti-hazing laws. Colleges and universities should assess whether prevention programs, reporting mechanisms, educational initiatives, and enforcement practices remain consistent with applicable legal requirements and institutional practice.

**Consider recruitment and orientation messaging.** The Court noted that the university actively promoted participation in Greek life while possessing substantial knowledge regarding risks associated with fraternity activities. Institutions should evaluate whether recruitment and orientation materials accurately describe institutional expectations, accountability measures, and available student safety resources.

## Looking ahead

Although *Martinez* is binding only in Washington, it is likely to become an important decision cited in future litigation involving special relationships and institutional oversight of fraternities and other recognized student organizations.

The decision is further evidence of the evolving scope of judicially recognized special relationship duties (both on campus and potentially off campus). The Court's majority concluded that the university "was in the best position to exercise control of its fraternities in order to provide for the safety of its students." Ultimately, rather, *Martinez* underscores the importance of ensuring that the oversight institutions choose to exercise is intentional, consistently implemented, appropriately documented, and aligned with institutional policies and practice.

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