2026 IL App (1st) 242271

No. 1-24-2271

Opinion filed September 30, 2026

Third Division

IN THE

APPELLATE COURT OF ILLINOIS

FIRST DISTRICT

ROBERT BRONSTEIN, Individually and as Independent Administrator of the Estate of Nathan Bronstein, a Minor, Deceased, and ROSELLENE BRONSTEIN, Individually and as Next Friend of M.B. and S.B., Minors, Plaintiffs, v. LATIN SCHOOL OF CHICAGO, an Illinois Not-for-Profit Corporation; RANDALL DUNN; KRISTINE VON OGDEN; BRIDGET HENNESSY; JANE KNOCHE; ANNELIESE KRANZ; DAVID KOO; SHELLEY GREENWOOD; and THOMAS HAGERMAN, Defendants (Robert Bronstein, Plaintiff-Appellant; Latin School of Chicago, Defendant-Appellee).	)	Appeal from the Circuit Court of Cook County. No. 22 L 3763 Honorable Scott D. McKenna, Judge, presiding.

JUSTICE LAMPKIN delivered the judgment of the court, with opinion.
Presiding Justice Quish and Justice Rochford concurred in the judgment and opinion.

OPINION

¶ 1 Plaintiffs Robert Bronstein and Rosellene Bronstein enrolled their son, Nathan, in defendant Latin School of Chicago (Latin School) in the fall of 2021 for his tenth grade school year. Nathan struggled to make friends and felt isolated and ostracized. He eventually joined the junior varsity basketball team—an experience that ended with him being bullied by his teammates and other students. Plaintiffs were subsequently able to reenroll Nathan at his previous school, Francis W. Parker School (Parker). In the intervening month between the end of his semester at Latin School and his reenrollment at Parker for the spring semester, Nathan died by suicide.

¶ 2 Plaintiffs brought suit against defendant Latin School and a number of its employees alleging a variety of claims primarily based on accusations that Latin School did not do enough to investigate, prevent, and remediate the bullying that Nathan experienced. Most but not all of these claims were dismissed by the trial court. The trial court entered an order with a finding pursuant to Illinois Supreme Court Rule 304(a) (eff. Mar. 8, 2016), and this appeal followed.

¶ 3 For the following reasons, we affirm the judgment of the trial court.[1]

¶ 4 I. BACKGROUND

¶ 5 Plaintiffs' son, Nathan Bronstein, was 15 years old on January 13, 2022, when he took his own life approximately 30 days after he voluntarily withdrew from defendant Latin School. In April 2022, plaintiffs Robert Bronstein, individually and as the administrator of his deceased son's estate, and Rosellene Bronstein, individually and as next friend of her two other children, filed suit against Latin School and a number of its current or former employees, as well as five parents of

[1]In adherence with the requirements of Illinois Supreme Court Rule 352(a) (eff. July 1, 2018), this appeal has been resolved without oral argument upon the entry of a separate written order.

minor children. Following unsuccessful attempts at mediation, defendants filed motions to dismiss the complaint, and plaintiffs filed an amended complaint, which added the former chair of Latin School's board of trustees and six additional parents of minor children as defendants.

¶ 6 Plaintiffs eventually dismissed all claims against the parents of the minor students and filed a second amended complaint that added additional defendants. Defendants moved to strike the second amended complaint, which the trial court granted.

¶ 7 Plaintiffs then filed their third amended complaint alleging 10 separate counts, which became the operative complaint that led to this appeal. The final list of defendants included Latin School, Latin School's former head of school Randall Dunn, the former upper school director Kristine Von Ogden, the tenth grade dean of students Bridget Hennessy, two school counselors (Jane Knoche and Anneliese Kranz),[2] teacher Andrew Sanchez, Latin School board of directors chair David Koo, assistant head of school Shelley Greenwood, and current head of school Thomas Hagerman. While it would be impossible to summarize the entirety of plaintiffs' 166-page third amended complaint and the hundreds of pages of exhibits attached to it, we briefly summarize the allegations and claims raised therein.

¶ 8 In March of 2021, Nathan was accepted to Latin School, a private high school with an annual tuition cost of $40,000, for the 2021-22 school year. Latin School maintained a handbook that stated the school "will be an inclusive, welcoming school for all students" and that it would "strengthen support for new students." The handbook additionally identified bullying as something that diminished the entire community and compromised the ethical and educational quality of life

[2]Throughout the briefing and the record, we note there are multiple spellings of Hennessey's last name and Kranz's first name. For consistency, we have adopted the spellings used in the complaint's caption.

at Latin School. The handbook further declared zero tolerance for bullying and cyberbullying, including when that conduct took place off campus and outside school hours.

¶ 9 The summer before Nathan's enrollment was to start, he began expressing anxiety about the transition to Latin School. Nathan's mother reached out to Hennessy, the ninth and tenth grade dean of students. Hennessy stated that she would help Nathan connect with other students. Nathan's anxiety did not improve once he began the school year. He complained to his parents that he felt ostracized by other students, including a neighbor that Nathan believed to be his friend. Nathan directed his anger and frustration at his parents.

¶ 10 In October 2021, Nathan's parents reached out to the tenth grade parent chairs to inquire as to whether social events could be planned so that Nathan and his sister, who was also enrolled at Latin School, could get to know other children better. The responses she received led her to understand that Latin School was not willing to fund any social events.

¶ 11 On October 8, 2021, Kranz reached out to Nathan, acknowledging that transitioning to a new school could be difficult and she wanted to offer him support. Nathan did not respond. Kranz then contacted Nathan's mother to inquire as to whether she thought Nathan would meet with her. Nathan's mother subsequently learned that Nathan had skipped school. During one e-mail with Hennessy, Nathan's mother stated that she felt Nathan was "thrown into school this year without enough proactive support" from Latin School. She also told Hennessy and Kranz that, although Nathan was sharing his difficulties at school, he did not want his mother to do anything about it and that Nathan was upset with her for "meddling."

¶ 12 On October 14, 2021, Nathan and his parents met with Kranz to discuss Nathan's absence from school. Nathan expressed that he felt isolated and did not want to be at Latin School because

he had no friends there. Several days later, Nathan's mother e-mailed Kranz to tell her that Nathan was angry and uncomfortable about the questions he was getting from other students regarding the reasons for his departure from his previous school. She asked Kranz to work with Nathan "to come up with a response to avoid the judgment of his peers."

¶ 13 On October 19, 2021, Nathan's mother e-mailed Kranz and stated, "Things at home are horrific. Nate has gone crazy. Mr. Bronstein and I think we need to send Nate away, Nate is terrorizing us and sabotaging his school responsibilities." Kranz responded that she was sorry Nathan was struggling and that she would talk to him. The same day, Mrs. Bronstein e-mailed Kranz again, stating, "I need a psychiatrist for Nate, Nate needs to be medicated. I'm afraid Nate is going to hurt himself or hurt me. Can you please refer me to one that is available ASAP?" Kranz recommended two separate facilities, and Mrs. Bronstein followed up with both.

¶ 14 The same day, Kranz met with Nathan and assessed him for suicidal ideation, citing Mrs. Bronstein's concerns. Nathan denied any suicidal ideation or safety concerns and called his mother a liar, claiming that nothing good comes from her involvement. During the assessment, Nathan was angry and irritable and displayed resentment toward his parents for transferring him to Latin School. Nathan rejected Kranz's suggestion that he get more engaged at the school and stated the only solution was for him to return to his previous school. Nathan's parents did not learn of this assessment until 2023, after Nathan's death.

¶ 15 On October 20, 2021, Kranz e-mailed Mrs. Bronstein to see if Mrs. Bronstein had located a therapist for Nathan. Given the nature of Nathan's struggles, she recommended they look into family counseling. She further stated that, "[g]iven Nate's resistance to any support at Latin (and

his refusal to be open to any alternatives other than returning to Parker), I think this issue needs to be addressed with professionals outside of school."

¶ 16 The Bronsteins took Nathan to a mental health evaluation the following day, during which Nathan stated his relationship with his parents was warm but conflictual. He stated he felt socially isolated at Latin School and identified his stressors as the change in schools and bullying.

¶ 17 Mrs. Bronstein eventually escalated her concerns and met with Von Ogden. During that meeting, she told Von Ogden that Nathan felt socially isolated and ostracized. She also told Von Ogden that Nathan felt singled out by his geometry teacher, Andrew Sanchez, and that Sanchez, in the context of discussing mathematical proofs, told Nathan "you're going nowhere in life."

¶ 18 In November 2021, Nathan met with Parker's principal, and Parker ultimately agreed to a mid-year transfer, meaning Nathan would begin attending Parker at the start of the next semester on January 24, 2022.

¶ 19 Nathan continued to attend outpatient counseling sessions and eventually joined Latin School's junior varsity basketball team. Although Nathan was injured and could not play, he still attended practices and games. The team maintained a group chat to communicate about games and practices. Following a game against Parker, Nathan responded with a "thumbs down" emoji to a derogatory post about Parker.

¶ 20 On December 10, 2021, Nathan attended a varsity basketball game between Latin School and Parker. During the game, Nathan's phone was used to post a photo on social media of the scoreboard showing Parker in the lead with a "W" superimposed on the photo. Nathan denied making the post and claimed that someone else had used his phone. Following the game, members of the group chat to which Nathan belonged began accusing Nathan of making the post. Multiple

students sent texts such as, “f*** you nate,” “f*** you Bronstein,” and “snake ass n***.” Another student texted, “Bronstein is silent. He has nothing to say.” Nathan replied, “I’m in shambles.” As the group continued to text about the incident until midnight, Nathan responded, “I’m still on your mind in the dead of night.”

¶ 21 One of the Latin School varsity basketball players later heard of the image posted from Nathan’s phone and posted on the application Snapchat an image of himself holding up his middle finger with the text “F*** Bronstein.” This image propagated among students and was modified multiple times, including the words “Bronstein pack” and an emoji blowing smoke. Nathan understood that addition to mean smoking cigarettes laced with his ashes. Nathan thereafter reported the incident to Hennessy and communicated that he wanted the bullying to stop. Sometime between December 10, 2021, and his death, Nathan received a text message from a Latin School student encouraging him to kill himself. School staff eventually met with students involved but did not discipline anyone and eventually labeled the cyberbullying as a “social media incident.” None of the alleged cyberbullying, whether it was the text messages or the Snapchat posts, was reported to Nathan’s parents.

¶ 22 On January 13, 2022, Nathan spent time with some friends and attended a math tutoring session and a counseling session, during which he continued to blame his parents for his experience at Latin School. Later that day, Nathan hanged himself from a showerhead and was pronounced dead at the hospital that evening. Plaintiffs subsequently learned that staff at Latin School knew of the alleged bullying that Nathan reported and that, at Nathan’s request, they chose not to report it to Nathan’s parents.

¶ 23 Plaintiffs' complaint alleged wrongful death (count I), violation of Illinois's bullying prevention statute (105 ILCS 5/27-23.6 (West 2024)) (count II), willful and wanton breach of duty based on a voluntary undertaking (count III), intentional infliction of emotional distress (counts IV and VI[3]), breach of fiduciary duty (count V), violation of the Consumer Fraud and Deceptive Business Practices Act (815 ILCS 505/1 *et seq.* (West 2024)) (counts VII and VIII), counselor negligence (count IX), and medical malpractice (count X).

¶ 24 Each defendant filed a motion to dismiss that contained a combination of requests to dismiss counts pursuant to sections 2-615 and 2-619 of the Code of Civil Procedure. See 735 ILCS 5/2-615, 2-619 (West 2024). The trial court granted these motions in part and denied them in part. Counts I, II, IV, V, VI, VII, and VIII were dismissed in their entirety with prejudice, and count III was dismissed with respect to defendants Dunn, Von Ogden, and Knoche. The trial court's order left count III intact as to Hennessy and Kranz and Latin School (by way of vicarious liability) and counts IX and X entirely intact.

¶ 25 Plaintiffs sought reconsideration of the trial court's ruling and sought permission to replead the dismissed counts. They also raised the possibility of amending their pleading to raise a negligence count based on the duties enumerated in the bullying prevention statute. The trial court denied the motion to reconsider and did not allow plaintiffs to file any further amended pleadings.

¶ 26 On October 18, 2024, the trial court entered an order pursuant to Illinois Supreme Court Rule 304(a) (eff. Mar. 8, 2016), finding that there was no just cause or reason for delay of enforcement or appeal of its orders related to defendants' motions to dismiss and plaintiffs' motion to reconsider. Plaintiff Robert Bronstein filed a notice of appeal on November 18, 2024.

[3]Count IV alleged a survival action while count VI involved plaintiffs in their individual capacities.

¶ 27 II. ANALYSIS

¶ 28 On appeal, plaintiff Robert Bronstein challenges the trial court's ruling dismissing with prejudice counts I, II, IV, and V, brought by Nathan's estate against Latin School, and the trial court's ruling dismissing count III, brought by Nathan's estate asserting direct liability against Latin School. He also challenges the trial court's ruling denying him the opportunity to file further amended pleadings.

¶ 29 A trial court's dismissal order pursuant to sections 2-615 or 2-619 of the Code of Civil Procedure is reviewed *de novo*. *Marshall v. Burger King Corp.*, 222 Ill. 2d 422, 429 (2006); *In re Estate of Zivin*, 2015 IL App (1st) 150606, ¶ 21. We address plaintiff's contentions in turn.

¶ 30 A. Implied Right of Action under the Bullying Prevention Statute—Count II

¶ 31 Plaintiff first argues that the trial court erred in dismissing count II, which alleged a violation of the bullying prevention statute, on the basis that the statute did not provide for an implied private right of action. Whether the bullying prevention statute provides for a private right of action is a matter of first impression.

¶ 32 A private right of action may be implied from a statute when (1) the plaintiff is a member of the class for whose benefit the statute was enacted, (2) the plaintiff's injury is one the statute was designed to prevent, (3) a private right of action is consistent with the underlying purpose of the statute, and (4) implying a private right of action is necessary to provide an adequate remedy for violations of the statute. *Pilotto v. Urban Outfitters West, L.L.C.*, 2017 IL App (1st) 160844, ¶ 22.

> "The standard that must be met for a court to imply a private right of action in a statute is quite high. We will take that extraordinary step only when it is clearly needed to

> advance the statutory purpose and when the statute would 'be ineffective, as a practical matter, unless a private right of action were implied.' " *Channon v. Westward Management, Inc.*, 2022 IL 128040, ¶ 33 (quoting *Abbasi v. Paraskevoulakos*, 187 Ill. 2d 386, 395 (1999)).

¶ 33 "Although the courts have demonstrated a willingness to imply private causes of action where there exists a clear need to effectuate the purpose of an act [citation], the judiciary by implying causes of action is assuming policy-making authority, a power more properly exercised by the legislature. The court should exercise such authority with due caution." *Galinski v. Kessler*, 134 Ill. App. 3d 602, 606 (1985).

¶ 34 1. The Text of the Statute

¶ 35 Determining whether a statute contains an implied right of action requires us to perform statutory interpretation. When interpreting a statute, our primary objective is to ascertain and give effect to the legislature's intent. *People v. Jurisec*, 199 Ill. 2d 108, 118 (2002). The bullying prevention statute was amended on June 9, 2023, approximately 2½ months before plaintiffs filed their third amended complaint, and plaintiffs alleged that this amendment was partly a result of their advocacy efforts. Pub. Act 103-47 (eff. June 9, 2023).[4]

¶ 36 The bullying prevention statute begins with a statement of its purpose:

> "The General Assembly finds that a safe and civil school environment is necessary for students to learn and achieve and that bullying causes physical, psychological, and

[4]Effective August 15, 2025, this statute was renumbered to 22-110, but its content did not change. Pub. Act 104-391 (eff. Aug. 15, 2025). It was further amended July 1, 2026, with changes that do not affect the substance of the arguments before this court. Pub. Act 104-338 (eff. July 1, 2026). As such, we will confine our discussion to the version of the statute in effect at the time plaintiffs filed their complaint, as that is the statute discussed by the parties.

> emotional harm to students and interferes with students' ability to learn and participate in school activities. The General Assembly further finds that bullying has been linked to other forms of antisocial behavior, such as vandalism, shoplifting, skipping and dropping out of school, fighting, using drugs and alcohol, sexual harassment, and sexual violence. Because of the negative outcomes associated with bullying in schools, the General Assembly finds that school districts, charter schools, and non-public, non-sectarian elementary and secondary schools should educate students, parents, and school district, charter school, or non-public, non-sectarian elementary or secondary school personnel about what behaviors constitute prohibited bullying." 105 ILCS 5/27-23.7(a) (West 2024).

¶ 37 The bullying prevention statute prescribes that each school district, charter school, and nonpublic, nonsectarian elementary or secondary school shall create, maintain, and implement a policy on bullying, which must be filed with the State Board of Education. *Id.* § 27-23.7(d). This policy must be based on a template provided by the State Board of Education and must include 13 criteria enumerated in subsection (b). *Id.* § 27-23.7(b), (d). One of those criteria requires instances of bullying to be reported to parents or legal guardians. *Id.* § 27-23.7(b). Bullying policies must also contain a process to investigate whether a reported act of bullying falls within the scope of the school's or district's jurisdiction. *Id.* § 27-23.7(d). Every two years, a school must review and revise its policy and submit it to the State Board of Education. *Id.* The State Board of Education must then review the policy to determine if the policy complies with the criteria set out in the statute. *Id.* If a school fails to file its policy even after being notified of its failure, the State Board of Education must publish on its website a notice of the school's noncompliance. *Id.*

¶ 38 The bullying prevention statute further requires schools to submit to the State Board of Education data on verified allegations of bullying and delegates to the State Board of Education the authority to adopt rules regarding the notification of schools or districts that fail to comply with the bullying prevention statute's data submission requirements. *Id.* § 27-23.7(f). Schools must also, upon request by parents or guardians of enrolled children, provide nonidentifiable data regarding bullying allegations in a given year, and the State Board of Education must adopt rules regarding the handling and sharing of that data and maintaining the privacy of students involved. *Id.* § 27-23.7(g).

¶ 39 Penultimately, the bullying prevention statute gives the State Superintendent of Education the authority to provide grants to schools to support their anti-bullying programming. *Id.* § 27-23.7(j). However, schools that are not in compliance with subsection (f) are not eligible for grants. *Id.*

¶ 40 Finally, the bullying prevention statute states, "This Section shall not be interpreted to prevent a victim from seeking redress under any other available civil or criminal law." *Id.* § 27-23.7(e).

¶ 41 2. Whether the Bullying Prevention Statute Provides for an Implied Private Right of Action

¶ 42 Having outlined the purpose and strictures of the bullying prevention statute, we turn to whether the statute contains an implied private right of action. At the outset, plaintiff claims that this case is analogous to *Dawkins v. Fitness International, LLC*, but that case is distinguishable because the statutes in question contained language explicitly permitting a private right of action. There, the plaintiff sued when a fitness gym failed to use an automated external defibrillator (AED)

on her husband, which resulted in his death. *Dawkins v. Fitness International, LLC*, 2022 IL 127561, ¶ 1. The case turned on whether the Physical Fitness Facility Medical Emergency Preparedness Act (210 ILCS 74/1 *et seq.* (West 2012)), which mandated that physical fitness facilities have a functioning AED and staff members trained in its use, and the Automated External Defibrillator Act (AED Act) (410 ILCS 4/1 *et seq.* (West 2012)) gave rise to a private right of action when facility staff failed to use the AED in an emergency. *Dawkins*, 2022 IL 127561, ¶¶ 25-31. The AED Act maintained that " '[a]n AED user is not liable for civil damages as a result of any act or omission involving the use of an [AED] in an emergency situation, except for willful or wanton misconduct, if the requirements of this Act are met.' " (Emphases omitted.) *Id.* ¶ 32 (quoting 410 ILCS 4/30(d) (West 2012)). The supreme court concluded that "[t]he plain and unambiguous meaning of this phrase is that civil liability may attach to willful and wanton failures to use an AED. In other words, a right of action does exist for willful and wanton misconduct in connection with the non-use of an AED." *Id.* ¶ 33.

¶ 43 Thus, we do not find *Dawkins* persuasive. The statute in question contains no explicit statement about the circumstances in which civil liability may or may not attach, and *Dawkins* does not assist us in determining whether a private right of action may be implied.

¶ 44 The first element to consider is whether the plaintiff is a member of the class for whose benefit the statute was enacted. *Pilotto*, 2017 IL App (1st) 160844, ¶ 22. Nathan, as a 15-year-old high school student who was bullied, is indisputably a member of the class for whose benefit the bullying prevention statute was enacted. Defendant Latin School concedes this point.

¶ 45 However, assuming without deciding that suicide is one of the injuries the bullying prevention statute is intended to prevent, the remaining two elements do not support the existence

of a private right of action. First, a private right of action is not consistent with the underlying purpose of the bullying prevention statute. *Id.* In evaluating whether a private right of action is consistent with the underlying purpose of a statute, it is appropriate to consider whether the statute is remedial in nature. *Davis v. Dunne*, 189 Ill. App. 3d 739, 743 (1989).

¶ 46 In *Davis*, the plaintiff sued the president of the Board of Commissioners of Cook County, alleging that the promotion of another employee ahead of the plaintiff violated the Cook County Civil Service Commission Rules and a right of action could be implied from a public act dubbed the "Civil Service Act." Ill. Rev. Stat. 1987, ch. 127, ¶ 63b101 *et seq.*; *Davis*, 189 Ill. App. 3d at 741-42. The court observed that the Civil Service Act applied to the narrow realm of civil service employment, authorizing the election of commissioners and providing a framework for appointment, promotion, and removal of civil service employees and that the statute enumerated that violations of the statute could be prosecuted by the Attorney General, the State's Attorney, or the commission. *Davis*, 189 Ill. App. 3d at 742-43. It further reasoned that simply because the statute served public policy did not imply a private right of action and it was proper to inquire as to whether the statute was remedial in nature. *Id.* at 743. Ultimately, the court held that the statute "prescribes procedures for appointment, promotion, and removal of civil service employees, and prohibits certain discriminatory and politically based misconduct. The Act does not seek to redress wrongs, and therefore, is not remedial in nature." *Id.* It stated, "Although the Act protects, in its observance, civil service employees such as Davis, it does not, in its breach, provide a civil remedy for those employees." *Id.*

¶ 47 *Davis* is instructive here. The bullying prevention statute is not remedial but instead erects a regulatory framework for schools to follow to establish compliant anti-bullying policies, report

data on bullying allegations, and receive grant money for anti-bullying programming. Similar to *Davis*, the bullying prevention statute prescribes policies and requirements for schools, but it is not aimed at righting any wrongs or providing redress for any grievances—for the government or private parties. While it is clear that the point of requiring schools to establish anti-bullying policies or permitting them to receive grants for anti-bullying programming is to protect children and facilitate their ability to learn, it does not necessarily follow that the bullying prevention statute provides a remedy for private individuals.

¶ 48 Indeed, the bullying prevention statute sets out obligations that schools have with respect to the State Board of Education, *i.e.* submitting and maintaining anti-bullying policies that comply with the strictures of the bullying prevention statute. But the statute, as written, does not impose obligations on schools or districts with respect to parents or children. For example, a bullying policy must contain "procedures for promptly investigating and addressing reports of bullying," and the statute enumerates 4 areas that these procedures must address. 105 ILCS 5/27-23.7(b)(5) (West 2024). But the required procedures are exceptionally broad.

¶ 49 One such requirement is that a bullying policy must contain procedures

> "[c]onsistent with federal and State laws and rules governing student privacy rights, [for] providing parents and guardians of the students who are parties to the investigation information about the investigation and an opportunity to meet with the principal or school administrator or his or her designee to discuss the investigation, the findings of the investigation, and the actions taken to address the reported incident of bullying." *Id.* § 27-23.7(b)(5)(D).

Policies must also contain procedures for "[m]aking all reasonable efforts to complete the [bullying] investigation within 10 school days after the date the report of the incident of bullying was received." *Id.* § 27-23.7(b)(5)(A). The exact specifics of these policies and procedures, however, are left to schools to formulate and the State Board of Education to approve. When broad discretion is given to an agency, it negates the implication that there was legislative intent to create a private right of action. *Moore v. Lumpkin*, 258 Ill. App. 3d 980, 996 (1994).

¶ 50 Furthermore, the bullying prevention statute concerns itself with incentivizing the creation and promulgation of anti-bullying policies and the consequences of not having such a policy. It does not, in any way, concern itself with possible consequences related to how a school enforces or effectuates that policy. Thus, we agree with the trial court that any conceivable private right of action under the bullying prevention statute would only permit a lawsuit against a school for failing to have an anti-bullying policy. But that is not what count II of plaintiffs' complaint alleged; it instead alleged, in line with other counts, that defendant Latin School violated the bullying prevention statute by failing to properly investigate and failing to notify the Bronsteins or other parents of students involved. Permitting a lawsuit based on how a school chose to enforce its policy or respond to a particular instance of bullying would not only require us to imply a private right of action; it would require us to read into the bullying prevention statute words and sentences that do not exist. A fundamental principle of statutory interpretation is that we may not read into a statute exceptions, limitations, or conditions the legislature did not express. *Dew-Becker v. Wu*, 2020 IL 124472, ¶ 14. The fact that the bullying prevention statute is not intended to foreclose individuals from other civil or criminal remedies further indicates that the General Assembly did not intend to give private citizens a private right of action. 105 ILCS 5/27-23.7(e) (West 2024).

¶ 51 As to the fourth element, we also do not agree that a private right of action is necessary to provide an adequate remedy for violations of the statute. *Pilotto*, 2017 IL App (1st) 160844, ¶ 22. Plaintiff argues that, without a private right of action, the sole consequence for failing to comply with the bullying prevention statute is placing the school on a list online and that such a remedy is "toothless" and does nothing to make a victim whole. The difficulty there is that plaintiff began from the flawed premise that the bullying prevention statute is remedial in nature and therefore requires teeth or that the statute is concerned with compensating victims. We must also reiterate that the bullying prevention statute specifically states, "This Section shall not be interpreted to prevent a victim from seeking redress under any other available civil or criminal law." 105 ILCS 5/27-23.7(e) (West 2024). If the legislature wished to give parents or students a private right of action, it would not have specifically included this subsection. And if victims of bullying may seek redress for bullying using other available civil or criminal laws, then a private right of action is not necessary to provide an adequate remedy for bullying victims.

¶ 52 Given all these considerations, we conclude that the bullying prevention statute as written contains no implied right of action and the trial court did not err in dismissing this count II of plaintiffs' complaint with prejudice.

¶ 53 B. Repleading a Common-Law Negligence Claim Based on the Bullying Prevention Statute

¶ 54 Plaintiff next argues that the trial court erred by denying him the opportunity to plead a common-law negligence claim based on the requirements of the bullying prevention statute after it concluded that the statute does not contain a private right of action.

¶ 55 "The law is clear in Illinois that the allowance of an amendment to pleadings rests within the sound discretion of the trial court." *Tishman Midwest Management Corp. v. Wayne Jarvis, Ltd.*, 146 Ill. App. 3d 684, 692 (1986). Before the trial court can be found to have abused its discretion in denying a party leave to amend, it must be clear from the record that reasons or facts were presented to the trial judge as a basis for requesting the favorable exercise of the trial court's discretion. *Id.*

¶ 56 However, nothing in the record demonstrates that plaintiffs submitted a proposed amended complaint or otherwise made a record about what an amended complaint would contain that would justify being allowed leave to amend. *Id.*

¶ 57 Ordinarily, when determining whether an amendment to a complaint should be allowed, a court generally considers four factors: (1) whether the proposed amendment would cure a defect in the pleading, (2) whether the proposed amendment would surprise or prejudice the opposing party, (3) whether the proposed amendment was timely filed, and (4) whether the moving party had previous opportunities to amend the complaint. *Sellers v. Rudert*, 395 Ill. App. 3d 1041, 1054 (2009). "A plaintiff's failure to tender a proposed complaint significantly diminishes a court's ability to analyze the appropriate factors for determining whether leave should be granted as the existence of a proposed amendment is implicit in the first three factors." *Id.* at 1054-55. Indeed, the failure to tender a proposed amendment to the trial court forfeits review of the trial court's decision. *Id.* at 1055. Plaintiff asks us to hold that the trial court abused the discretion that it was never given an opportunity to consider a proposed amendment. His extensive arguments about the law supporting a negligence claim based on the bullying prevention statute do not cure this

problem—particularly when plaintiff's view of the duties imposed by the statute is far broader than our interpretation, as discussed above.

¶ 58 In asking us to hold that the trial court should have allowed plaintiffs to file an amended complaint, we are required to speculate as to what that amended pleading would look like and what factual allegations would have been made to satisfy the various elements, including proximate cause, of a negligence claim. That, of course, we cannot do.

¶ 59 On this basis, the trial court did not abuse its discretion in refusing to allow any further amendments to the complaint.

¶ 60 C. Willful and Wanton Breach of Duty (Voluntary Undertaking)—Count III

¶ 61 Count III alleged that defendants voluntarily agreed to monitor for and address circumstances that would negatively impact Nathan's safety, mental health, and well-being. However, after receiving reports of bullying against Nathan, they failed to exercise reasonable care and instead acted willfully and wantonly so as to increase the harm to Nathan. The trial court dismissed this count, with prejudice, as it pertained to defendants Dunn, Von Ogden, and Knoche and left this count intact as to defendants Hennessy and Kranz. The trial court reasoned that the complaint did not adequately plead that defendants Dunn, Von Ogden, or Knoche undertook any affirmative duties or steps to prevent Nathan's bullying and that their interactions with Nathan were so remote as to render them incapable of voluntarily undertaking any efforts on Nathan's behalf.

¶ 62 The trial court later clarified its ruling, stating that count III remained intact with respect to defendants Hennessy and Kranz and defendant Latin School by way of vicarious liability. However, it dismissed this count as it pertained to the direct liability of Latin School. In denying

plaintiffs' motion to reconsider, the trial court reasoned that the complaint did not plead any affirmative undertaking, other than the allegations related to Kranz and Hennessy, and that statements in handbooks, policies, promotional materials, and procedures could not qualify as affirmative actions that qualify as the undertaking of a duty. On appeal, plaintiff does not challenge the dismissal of defendants Dunn, Von Ogden, and Knoche. Instead, plaintiff only claims that the trial court erred in rejecting a claim of direct liability against Latin School.

¶ 63 Ordinarily, to prevail on a claim of negligence, the plaintiff must prove that the defendant owed a duty, that the defendant breached that duty, and that the defendant's breach was the proximate cause of injury to the plaintiff. *Bell v. Hutsell*, 2011 IL 110724, ¶ 11.[5] Under a voluntary undertaking theory of liability, the duty of care to be imposed upon a defendant is limited to the extent of the undertaking. *Id.* ¶ 12. This theory is narrowly construed. *Id.*

¶ 64 Plaintiff argues that two different theories for a voluntary undertaking apply here. Under the first voluntary undertaking theory, one who undertakes, gratuitously or for consideration, to render services to another that he should recognize as necessary for the protection of the other's person or things, is subject to liability to the other for physical harm resulting from his failure to exercise reasonable care to perform his undertaking if (1) his failure to exercise such care increases the risk of harm or (2) the harm is suffered because of the other's reliance on the undertaking. *Id.* ¶ 13 (citing Restatement (Second) of Torts § 323 (1965)).

[5]The trial court's ruling on defendants' motions to dismiss notes a dispute as to whether this count would need to be proved using an ordinary negligence standard or a willful and wanton standard. This dispute has not carried over to this appeal, nor does it have any bearing on the dispositive issues for this claim.

¶ 65 Alternatively, one who, being under no duty to do so, takes charge of another who is helpless adequately to aid or protect himself is subject to liability to the other for any bodily harm caused to him by (1) the failure of the actor to exercise reasonable care to secure the safety of the other while within the actor's charge or (2) the actor's discontinuing his aid or protection, if by doing so he leaves the other in a worse position than when the actor took charge of him. *Wakulich v. Mraz*, 203 Ill. 2d 223, 244 (2003) (citing Restatement (Second) of Torts § 324, at 139 (1965)); see *Rojas Concrete, Inc. v. Flood Testing Laboratories, Inc.*, 406 Ill. App. 3d 477, 483 (2010) ("If a person voluntarily agrees to perform a service necessary for the protection of another person or his or her property, a duty may be imposed on the party undertaking the service under the voluntary undertaking doctrine.").

¶ 66 Defendant Latin School does not dispute that such an action, in theory, can be pled directly against the institution of Latin School itself, and thus we concern ourselves only with whether plaintiffs successfully pled allegations that satisfy either above-referenced standard.

¶ 67 Having reviewed plaintiffs' complaint, we find it to be lacking with respect to the two separate standards. Plaintiffs' complaint alleges that defendant Latin School "agreed to voluntarily undertake to investigate, report, and stop bullying, cyberbullying, and harassment." We agree with the trial court that the institution's act of promulgating rules and policies in a handbook, which is the only act alleged that could conceivably have been taken by the institution itself rather than Kranz and Hennessy, could not be classified as a voluntary agreement with Nathan to perform particular actions. Additionally, given that we may affirm on any basis appearing in the record (*American Service Insurance Co. v. City of Chicago*, 404 Ill. App. 3d 769, 776-77 (2010)), this count also suffers from an absence of allegations establishing causation. As we discuss in detail

later in this opinion, cause is not established where the causal connection is contingent, speculative, or merely possible. *Mengelson v. Ingalls Health Ventures*, 323 Ill. App. 3d 69, 75 (2001).

¶ 68 The complaint alleges that, "[a]s a direct and proximate result of the Latin Defendants' willful and wanton failure to undertake an adequate investigation to stop the bullying and cyberbullying against Nate and the Latin Defendants' willful or grossly negligent blaming of the victim and characterizing his suffering as something he deserved, Nate, deceased, sustained conscious pain and suffering, disability, and disfigurement prior to his death."

¶ 69 But other than this conclusory allegation, which is insufficient to overcome Illinois's fact-pleading requirements, plaintiffs alleged nothing to establish that Latin School's alleged undertaking and any alleged failure to exercise reasonable care in that undertaking had any causal relationship to the harm Nathan suffered. See *Welsh v. Commonwealth Edison Co.*, 306 Ill. App. 3d 148, 155 (1999) (a pleading that paraphrases the elements of a cause of action in conclusory terms is insufficient). No factual allegations establish how Latin School's actions or failings caused Nathan's injuries, left him worse off, or increased the risk of harm to him. On that basis, plaintiffs cannot state a claim for the breach of a duty that was voluntarily undertaken by Latin School as an institution. In discussing this issue with causation, we note for clarity that plaintiffs' allegations in count III survive as to Kranz and Hennessy, and as to Latin School on the basis of vicarious liability. The remaining defendants have not cross-appealed to challenge the survival of those counts, and thus the sufficiency of the complaint with respect to those defendants and claims is not before us. Therefore, we express no opinion about the sufficiency of those claims.

¶ 70 Accordingly, the trial court did not err in dismissing this claim with respect to the direct liability of Latin School.

¶ 71 D. Breach of Fiduciary Duty—Count V

¶ 72 Count V of plaintiffs' complaint alleged that defendant Latin School's policies and school rules created a confidential relationship with Nathan and that Latin School accepted Nathan's trust and undertook a fiduciary duty when school counselors met with Nathan to address his mental health, well-being, and bullying. The complaint further alleged that Latin School breached that fiduciary duty when it failed to investigate or remediate the bullying that occurred and failed to inform Nathan's parents. The trial court dismissed this count on the basis that plaintiffs failed to state sufficient facts establishing a duty to investigate and prevent bullying and because this count was duplicative with count III. We agree with the trial court that count V is duplicative with count III.

¶ 73 Generally, to state a cause of action for breach of fiduciary duty, a plaintiff must allege (1) a fiduciary duty on the part of the defendant, (2) a breach of that duty, (3) an injury, and (4) a proximate cause between the breach and injury. *Alpha School Bus Co. v. Wagner*, 391 Ill. App. 3d 722, 747 (2009).

¶ 74 Pleading in the alternative is generally permitted. *Neade v. Portes*, 193 Ill. 2d 433, 445 (2000). However, duplicate claims are not permitted. *Id.* In *Pippen v. Pedersen & Houpt*, this court observed that negligence and breach of fiduciary duty claims are conceptually distinct because the relevant standard of care in a negligence claim encompasses a broader range of conduct than is covered by a fiduciary duty and that a negligence claim is based in tort while a claim for breach of fiduciary duty is founded on principles of agency, contract, and equity. *Pippen v. Pedersen & Houpt*, 2013 IL App (1st) 111371, ¶ 28. Despite those differences, "we look to the operative facts and injury to determine whether the causes of action are duplicative." *Id.*

¶ 75 *Neade* exemplifies these principles. There, the plaintiff sued his primary care physician for medical negligence and breach of fiduciary duty, and the supreme court was asked to determine if a breach of fiduciary duty claim could be brought against the doctor. *Neade*, 193 Ill. 2d at 435, 439. Count I alleged that the plaintiff's doctor failed to authorize an angiogram, which resulted in the plaintiff's death. *Id.* at 437. Count II alleged that the plaintiff's doctor had a fiduciary duty to act in good faith and in the best interests of the plaintiff and breached that duty by refusing to authorize an angiogram, refusing to refer the plaintiff to a specialist, and by failing to disclose that he contracted with Chicago HMO, which provided funding for outside referrals or tests—a portion of which the doctor would receive if any funding remained at the end of the year. *Id.* at 437-38.

¶ 76 The supreme court reasoned that it did not have to decide whether a breach of fiduciary duty claim could be brought against the doctor because it was duplicative with the medical negligence claim. *Id.* at 446. Although the breach of fiduciary duty count contained additional facts not in the medical negligence counts, namely the facts related to the doctor's relationship with Chicago HMO, the court looked to the operative facts of each claim and determined that the operative fact was the doctor's failure to order an angiogram for the plaintiff. *Id.* at 443. The supreme court reasoned that proving the standard of care for medical negligence was also what the plaintiff would have had to prove for a breach of fiduciary duty claim and that a breach of fiduciary duty claim would be nothing but the malpractice standard traditionally applied in actions against physicians. *Id.* at 445.

¶ 77 Here, in count V, plaintiffs alleged the existence of "a confidential relationship between Latin and Nathan" based on "Latin's own promulgated rules and policies" and that "Latin specifically designed the language in the Handbook so that students, including Nate, were aware

of, understood, and would rely upon Latin for its role in safeguarding their emotional and social well-being, and, to protect them from harassment, thereby ensuring the creation of a confidential relationship based on trust and confidence." The complaint further alleged that "Latin invited its students, including Nate, to invoke a fiduciary relationship with Latin by offering the help and counsel of school counselors" and that, "[b]y agreeing to meet with school counselors, specifically Kranz, Nate reposed his trust and confidence in Latin."

¶ 78 According to the complaint, Latin School knowingly accepted that trust and undertook a fiduciary duty when Kranz and Hennessy met with Nathan to address his well-being and his complaints of bullying. However, the school breached that duty when it failed to investigate Nathan's bullying complaints and failed to prevent additional bullying and failed to inform Nathan's parents. As a result, the complaint alleged that those breaches caused "sustained conscious pain and suffering, disability, and disfigurement" prior to Nathan's death.

¶ 79 Meanwhile, count III alleged a willful and wanton breach of duty based on a voluntary undertaking. That count alleged that defendants "agreed to voluntarily undertake to monitor for and address circumstances known to them that would negatively impact Nate's safety, mental health and well-being." This included defendants agreeing to "voluntarily undertake to investigate, report, and stop bullying, cyberbullying, and harassment." However, the complaint alleged that defendants failed to exercise reasonable care in that undertaking by, among other things, failing to take action to enforce Latin School's own rules and policies, taking no action to investigate Nathan's report of bullying, taking no action to prevent additional bullying, and by giving Nathan the impression of wanting to assist him by setting up meetings with Nathan while leaving him to manage the aftermath of the bullying on his own. As a result of defendants' breach of duty in count

III, the complaint alleged that Nathan suffered "sustained conscious pain and suffering, disability, and disfigurement prior to his death."

¶ 80 Comparing these two claims, we agree with the trial court that these counts are duplicative. Both claims share the same operative facts. The fiduciary duties that defendants allegedly undertook and then breached in count V contain the same essential core of facts that make up defendants' duties that they allegedly voluntarily undertook and then breached in count III—a failure to investigate, report, and remedy bullying. As additional support, the injuries Nathan allegedly sustained in these two counts are identical.

¶ 81 Accordingly, we need not determine whether a student or his estate can properly plead a breach of fiduciary duty claim against a school in this instance. Even if such a claim is proper, it is duplicative ,and the trial court did not err in dismissing it. We are mindful of the fact that we have determined this count to be duplicative of count III, but we have also affirmed the dismissal of count III. Given our conclusion that plaintiffs' breach of fiduciary duty count is essentially the same claim as count III, count V would suffer from the same insufficiencies identified in count III, particularly with respect to causation.

¶ 82 E. Wrongful Death—Count I

¶ 83 The trial court dismissed count I of plaintiffs' complaint, which alleged wrongful death on the basis that defendants had no duty to prevent Nathan's suicide and that Nathan's act of taking his own life was, based on the allegations in the pleading, not foreseeable as a matter of law. Plaintiffs argue on appeal that this conclusion was error.

¶ 84 To state a cause of action under the Wrongful Death Act (740 ILCS 180/0.01 *et seq.* (West 2024)), the plaintiff must show that (1) the defendant owed a duty to the deceased, (2) defendant

breached that duty, (3) the breach of duty was the proximate cause of the deceased's death, and (4) monetary damages resulted to persons designated under the Wrongful Death Act. *Bovan v. American Family Life Insurance Co.*, 386 Ill. App. 3d 933, 938 (2008). Here, the foreseeability element as it relates to proximate cause is dispositive, and we need not reach any other issues regarding whether plaintiffs properly pled a wrongful death claim.

¶ 85 Proximate cause consists of (1) cause in fact and (2) legal cause. *Young v. Bryco Arms*, 213 Ill. 2d 433, 446 (2004). The second component, legal cause, is established only if the defendant's conduct is " 'so closely tied to the plaintiff's injury that he should be held legally responsible for it.' " (Internal quotation marks omitted.) *Id.* (quoting *Simmons v. Garces*, 198 Ill. 2d 541, 558 (2002)). The question is one of public policy—how far should a defendant's legal responsibility extend for conduct that did, in fact, cause the harm? *Id.* The proper inquiry regarding legal cause involves an assessment of foreseeability, in which we ask whether the injury is of a type that a reasonable person would see as a likely result of his conduct. *Id.* at 446-47. Proximate cause is not established where the causal connection is contingent, speculative, or merely possible. *Mengelson*, 323 Ill. App. 3d at 75.

¶ 86 Although proximate cause is generally a question of fact, the lack of proximate cause may be determined by the court as a matter of law where the facts alleged do not sufficiently demonstrate both cause in fact and legal cause. *Id.*

¶ 87 Regarding wrongful death and suicide, there is a general rule that the injured party's voluntary act of suicide is an independent, intervening act, which is unforeseeable as a matter of law and which breaks the chain of causation from the tortfeasor's negligent conduct. *Turcios v. The DeBruler Co.*, 2015 IL 117962, ¶ 20. However, this rule is not absolute. To overcome it, a

plaintiff "must plead facts which, if proven, would overcome application of the general rule that suicide is deemed unforeseeable as a matter of law. In other words, a plaintiff must plead facts demonstrating that the suicide was foreseeable, *i.e.*, that it was a likely result of the defendant's conduct." *Id.* ¶ 40.

¶ 88 *Turcios* is instructive here. In *Turcios*, the decedent committed suicide inside an apartment he rented with his wife. *Id.* ¶ 4. The complaint sought damages for wrongful death and alleged that the decedent and his wife entered into a written lease and took possession of the apartment on May 1, 2011. *Id.* ¶ 5. Ten days into the lease, the couple received a letter purporting to be an eviction notice giving them 30 days to vacate the property and that construction was planned to begin on June 10, 2011. That letter was followed by several others including a June 7, 2011, letter advising the couple that demolition work would begin soon. *Id.* The couple sought assistance from a charity group and reported to their case manager that they were losing sleep over the matter and that they were depressed, anxious, and angry over the situation. *Id.* ¶ 6. Demolition of the building began on June 10, 2011, despite the fact that the couple and their children were still occupying the apartment. *Id.* ¶ 7. The demolition company tore into the outside walls of the building and began demolishing surrounding units. *Id.* On June 14, the decedent told his wife that he could not tolerate the situation any longer, but he did not know what to do. *Id.* The following day, he committed suicide, leaving behind a note that said, " 'Please forgive me my daughters, and you also Carmen. Sell the land and build the house.' " *Id.* The supreme court observed:

> "[I]ntentional infliction of emotional distress, by its very nature, appears to have a slightly closer connection to suicide than other intentional torts. The tort requires that the distress inflicted be so severe 'that no reasonable man could be expected to endure it.' [Citation

> omitted.] Notwithstanding the ostensible connection between severe emotional distress and suicide, we also recognize that a suicide may result from a complex combination of psychological, psychiatric, chemical, emotional, and environmental factors. Thus, we believe it is the rare case in which the decedent's suicide would not break the chain of causation and bar a cause of action for wrongful death ***." *Id.* ¶ 41.

¶ 89 The supreme court concluded that the plaintiff's allegations were insufficient to plead a claim for wrongful death, as the decedent's suicide "was not a reasonably foreseeable result of defendant's alleged conduct in breaking the lease and pressuring the couple to vacate the apartment." *Id.* ¶ 42.

¶ 90 Plaintiff Robert Bronstein asserts that Nathan's suicide was the foreseeable result of defendants' failure to notify plaintiffs that Nathan had been bullied and failure to properly investigate the bullying and mete out discipline. As plaintiff articulates in his brief, "it is not too much to expect that licensed education professionals and mental health counselors will pick up the phone or send an e-mail to parents when they become aware of bullying of a minor student." However, whether one should expect such actions is separate and distinct from whether a suicide is the foreseeable result of not notifying parents of such bullying or not administering punishment to bullies.

¶ 91 Legal cause is established only if the defendant's conduct is so closely tied to the plaintiff's injury that he should be held legally responsible for it. *City of Chicago v. Beretta U.S.A. Corp.*, 213 Ill. 2d 351, 395 (2004). The conduct in *Turcios*, attempting to break a lease 10 days into tenants' occupancy, pressuring them to leave, and then beginning demolition of a building while the decedent and his family were still occupying the unit, conduct that can only be described as

highly egregious and intentional, could not preserve the chain of causation that is normally severed by suicide. The allegations surrounding Nathan's suicide similarly do not preserve the chain of causation. Plaintiffs alleged that Nathan took his own life at home, 28 days after he had withdrawn from Latin School and reenrolled at another school. Plaintiffs have not alleged any facts that indicate why Nathan chose to commit suicide, and we would not dream of speculating on that point. However, plaintiffs' allegations make it clear that bullying was not the only thing affecting Nathan's mental health. Long before Nathan complained of bullying, he repeatedly reported his unhappiness at being transferred to Latin School—even before starting the school year, his lack of friends, and his isolation. He carried anger toward his parents, and his mental health struggles were evident as early as October 2021 when his mother expressed in an e-mail to Kranz concern that they would have to "send Nathan away" and that she was afraid he was going to hurt himself or her—long before the bullying incidents that began on December 10, 2021. According to the complaint, when Kranz discussed the e-mail with Nathan, Nathan denied any suicidal ideation to school staff, called his mother a liar, and stated that nothing good came from her involvement.

¶ 92 Furthermore, the complaint alleged that Nathan reported the bullying to Hennessy and that the bullying was not reported to Nathan's parents at Nathan's request. Given all these alleged circumstances, including that Latin School knew that Nathan had denied suicidal ideation and that not reporting the bullying incidents to Nathan's parents was consistent with Nathan's wishes, we do not agree that the factual allegations overcome the general rule that suicide is unforeseeable as a matter of law. *Turcios*, 2015 IL 117962, ¶ 20. In addressing foreseeability, we ask whether the injury is of a type that a reasonable person would see as a likely result of his conduct. *Young*, 213 Ill. 2d at 446-47. The allegations in the complaint do not provide sufficient facts to indicate that a

reasonable person would foresee Nathan's suicide as a likely result of Latin School's alleged conduct. There are simply too many gaps in the alleged causal chain to link defendant Latin School's conduct with Nathan's death and overcome the rule that suicide is ordinarily unforeseeable as a matter of law.

¶ 93 Foreseeability is a question of public policy. *Id.* at 446. As the supreme court said in *Turcios*, suicide may result from a complex combination of psychological, psychiatric, chemical, emotional, and environmental factors. *Turcios*, 2015 IL 117962, ¶ 41. We agree with the trial court that holding Nathan's death to be a foreseeable result of what was largely alleged inaction would be an impossibly onerous standard, particularly when Nathan had not been a student at Latin School for 28 days, during which time he was on vacation and in his parents' continuous control. Even assuming suicide could ever be a foreseeable result of defendant Latin School's alleged actions or inaction, how deeply intertwined with the personal lives of students and their most intimate, private struggles would school staff need to be to foresee something that Nathan's private mental health counselor did not when they saw him the same day as his suicide? The fact that a consequence is merely possible does not suffice for causation. *Mengelson*, 323 Ill. App. 3d at 75.

¶ 94 Accordingly, the trial court did not err in dismissing this count, and we need not address any further arguments regarding the existence of a duty or any immunity on the part of defendant Latin School.

¶ 95 F. Intentional Infliction of Emotional Distress—Count IV

¶ 96 Count IV of plaintiffs' complaint, a survival action directed at all defendants, alleged the intentional infliction of emotional distress in that defendants perpetrated a number of extreme and outrageous acts against Nathan, including but not limited to (1) taking no action to investigate,

address, and prevent the bullying of Nathan; (2) permitting a teacher to berate and bully Nathan in class; (3) failing to enforce policies in the Latin School's handbook; (4) failing to inform Nathan's parents about the bullying he received; and (5) conveying to Nathan that it was his responsibility to figure out how to survive at Latin School.

¶ 97 The trial court's ruling dismissed this count on the basis that plaintiffs' allegations did not rise to the level of extreme and outrageous conduct, nor did they show intent on the part of defendants to cause Nathan emotional distress.

¶ 98 To properly plead a claim for intentional infliction of emotional distress, a plaintiff must plead facts that establish that (1) the defendant's conduct was extreme and outrageous; (2) the defendant either intended that their conduct should inflict severe emotional distress or knew that there was a high probability that their conduct would cause severe emotional distress; and (3) the defendant's conduct in fact caused severe emotional distress. *Kornick v. Goodman*, 2023 IL App (2d) 220197, ¶ 13.

¶ 99 Intentional infliction of emotional distress cannot be based on "mere insults, indignities, threats, annoyances, petty oppressions, or trivialities." *Duffy v. Orlan Brook Condominium Owners' Ass'n*, 2012 IL App (1st) 113577, ¶ 36. An objective standard, based on all the facts and circumstances, determines whether conduct is extreme or outrageous. *Id.* Extreme and outrageous behavior requires conduct that goes beyond all possible bounds of decency, such that a reasonable person would hear the facts and be compelled to feelings of resentment and outrage. *Id.* In determining whether behavior is extreme and outrageous, courts may consider whether the defendant abused a position of actual or apparent authority over the plaintiff, or abused the power

to affect the plaintiff's interests or where the defendant was aware that the plaintiff was particularly susceptible to emotional distress due to some physical or mental condition or peculiarity. *Id.*

¶ 100 In this appeal, plaintiff contends that the trial court erred in concluding that the complaint did not sufficiently allege intent or the existence of extreme and outrageous conduct. While defendant Latin School responds to these arguments, it further claims that plaintiffs' complaint contains no factual allegations regarding causation. Because the issue of causation is dispositive, we need not address any other arguments regarding the sufficiency of this claim.

¶ 101 Having reviewed plaintiffs' 166-page complaint, there is a noticeable absence of allegations that link any of defendant Latin School's actions or inactions to Nathan's mental state or eventual suicide. To be sure, plaintiffs' complaint makes conclusory allegations that "[t]he Latin Defendants' extreme and outrageous conduct did, in fact, cause Nate severe emotional harm" and that "Nate's emotional harm from Latin Defendants' conscious disregard to known and/or foreseeable bullying, cyberbullying, hate speech and/or other harassment of Nate was so severe that it resulted in Nate taking his own life." But conclusory allegations are not facts.

¶ 102 Illinois is a fact pleading jurisdiction. *Welsh*, 306 Ill. App. 3d at 155. A plaintiff must allege facts essential to the cause of action under which recovery is sought. *Id.* A pleading that merely paraphrases the elements of a cause of action in conclusory terms is not sufficient. *Id.*

¶ 103 There are any number of allegations in the complaint about defendant Latin School's conduct or lack of action. There are also numerous allegations about Nathan's struggles during his time as a student at Latin School. But there are no factual allegations linking the two. For example, Nathan is not alleged to have received any mental health treatment because of defendants' conduct or made any statements that would link his mental health or suicide to defendants' actions. As with

any tort action, plaintiffs must allege actual and proximate causation of the injury by the defendants' conduct. *Hayes v. Illinois Power Co.*, 225 Ill. App. 3d 819, 826 (1992). Such causation cannot be "contingent, speculative or merely possible." (Internal quotation marks omitted.) *Mengelson*, 323 Ill. App. 3d at 75.

¶ 104 Without factual allegations establishing causation, plaintiffs cannot state a claim for intentional infliction of emotional distress, and we need not reach the remaining arguments regarding whether plaintiffs sufficiently pled the elements of intent or extreme and outrageous conduct. Accordingly, the portion of the trial court's judgment dismissing this count is affirmed.

¶ 105 G. Whether Plaintiffs Should be Allowed to Replead

¶ 106 Finally, plaintiff Robert Bronstein contends on appeal that the trial court abused its discretion by dismissing plaintiffs' claims with prejudice rather than affording plaintiffs an opportunity to replead. Plaintiff identifies counts III through V as ones plaintiffs should have been permitted to replead.

¶ 107 The trial court's order denying plaintiffs' motion to reconsider set out the timeline in this case. On April 25, 2022, plaintiffs filed an initial complaint. On November 10, 2022, plaintiffs filed a first amended complaint, which added new parties and dismissed others. On July 24, 2023, plaintiffs filed a second amended complaint. The second amended complaint contained 807 paragraphs over 170 pages. On defendants' motion, the trial court struck a number of paragraphs from that complaint but gave plaintiffs leave to file a third amended complaint, which also added two more defendants. Plaintiffs then filed their third amended complaint, which contained 797 paragraphs spanning 166 pages.

¶ 108 The trial court concluded that, after 16 months and four iterations of their voluminous complaint, plaintiffs "could not, based on the factual scenario presented, ever adequately plead the causes of actions [*sic*] which were being dismissed." It further explained, "Nowhere does the Court state or suggest in its 5/21/24 Order that there were any 'gaps' in the factual allegations to bring the case within those causes of action, or that the Court believed plaintiffs could ever plead the case into existence as to those dismissed counts. It was clear to the Court that further pleadings would not cure the clear legal deficiencies affecting the dismissed counts."

¶ 109 As a rule, the trial court's ruling to allow or deny an amendment is a matter of discretion and will not be reversed absent an abuse of discretion. *Cook v. AAA Life Insurance Co.*, 2014 IL App (1st) 123700, ¶ 40. A trial court abuses its discretion when it refuses to allow a plaintiff to amend his complaint when a cause of action can be stated if the amendment is permitted. *Id.* However, a party does not have a right to unlimited amendments. *Plocar v. Dunkin' Donuts of America, Inc.*, 103 Ill. App. 3d 740, 750 (1981). The trial court may bring the litigation to an end when it believes that further amendments to pleadings will not further the interests of justice. *Id.*

¶ 110 Here, the trial court's ruling on plaintiffs' motion to reconsider makes its motivation for denying leave to file further amendments clear. After 16 months and multiple iterations of a massive and voluminous complaint, the trial court did not believe the pleading defects were the result of factual gaps that could still be filled. Instead, the trial court believed that if plaintiffs had the allegations to sufficiently state a cause of action for one of the dismissed counts, given the thoroughness of the complaints, they would have already done so.

¶ 111 We agree. The complaint before us is thorough and comprehensive. It documents in tremendous detail the numerous interactions plaintiffs had with defendants both before and after

Nathan's death, defendants' conduct, Nathan's struggles, and plaintiffs' considerable efforts to get Nathan the help he needed. As an illustrative example, we have discussed the insufficiency of the complaint as to the element of causation throughout this opinion. Thus far, plaintiffs have not identified any statements Nathan made to his family or school staff or outside mental health professionals, or any other fact, that tied his emotional distress or decision to end his own life to the actions or inactions of defendants. After four versions of their complaint, we can only conclude that such facts do not exist.

¶ 112 An abuse of discretion occurs only when the trial court's decision is arbitrary, fanciful, or unreasonable or where no reasonable person would take the view adopted by the trial court. *Seymour v. Collins*, 2015 IL 118432, ¶ 41. This definition does not describe the trial court's decision to dismiss the above counts with prejudice. The trial court's conclusion that, after four versions of a complaint and multiple years, plaintiffs could not sufficiently state a cause of action for the dismissed counts was reasonable.

¶ 113 Accordingly, the trial court did not err in dismissing plaintiffs' claims with prejudice and refusing to allow repleading.

¶ 114 III. CONCLUSION

¶ 115 For the foregoing reasons, we affirm the judgment of the trial court.

¶ 116 Affirmed.

***Bronstein v. Latin School of Chicago*, 2026 IL App (1st) 242271**

Decision Under Review:	Appeal from the Circuit Court of Cook County, No. 22-L-3763; the Hon. Scott D. McKenna, Judge, presiding.
Attorneys for Appellant:	Doug Albritton, of Actuate Law LLC, and Danielle J. Gould and Alexander D. Marks, of Burke, Warren, MacKay & Serritella, P.C., both of Chicago, for appellant.
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