Note: On the diagram, “D not liable” means “D not liable to P for the tort of negligence.” D might be liable to P on some other theory.

We encountered the elements of negligence earlier in connection with Vance v. Ball State University (class #6). Negligence is relevant to our discussion of vaccination policy as well, because:

- Nozick’s libertarian account of the natural right to liberty derives a role for the state in protecting each of us from unconsented-to boundary crossings by others. Tort law, including negligence, comes within this role for the state in protecting our natural rights.
- But is it feasible for plaintiff to rely on a private cause of action for negligence as a way of deterring and remedying the injury that defendant(s) did to her by failing to take the reasonable precaution of getting vaccinated?

In the cases we read in classes ##22-23, P sues D claiming that D is liable to P for the tort of negligence. In each of our cases, D responds by asserting that it cannot be liable to P because it owed P no duty of care. Thus the general issue in our cases arises at step one in the critical path diagram, above.