

Opinion No. 26-3880

March 10, 1926

BY: JAMES N. BUJAC, Assistant Attorney General

TO: Requested by: Honorable R. H. Grissom, Educational Budget Auditor, Santa Fe, New Mexico.

Municipal Boards of Education are not liable for their negligence or negligent acts of their employees, while engaged in the exercise of governmental functions imposed by law. No liability attaching, it is therefore not necessary nor proper for the Board to secure liability insurance on their transportation trucks.

OPINION

Your request is substantially as follows:

1. In case of a damage suit arising through an accident in the operation of transportation trucks owned by a Municipal School Board, is said Board liable for such damages.
2. Is it necessary or proper for a Municipal School Board of secure liability insurance on their transportation trucks.

§ 906, Ch. 148, Session Laws of 1923, gives Municipal Boards of Education the same powers and duties respecting its districts and schools as are possessed by County Boards of Education, and the County Board have authority to provide for the transportation of pupils.

The question is whether or not a Municipal Board of Education, when acting in the exercise of their official duties, are liable for torts.

"City board of education, as a quasi corporation, while engaged in exercise of quasi corporate and governmental functions imposed on it by law, is not liable for its negligence or negligent acts of its employees." *Krueger v. Board of Education of City of St Louis (Mo.)* 274 S. W. 811. *Krutili v. Board of Education of Butler District. (W. Va.)* 129 S. E. 486.

Most cases hold that, in the absence of express statute to the contrary, a school district or school corporation is not liable for injuries resulting from negligence. See 49 L. R. A. (N. S.) 1026, and note thereto; also Ann. Cases 1917 D 792 and note thereto.

As we have no statute to the contrary in this State it is my opinion that Municipal Boards of Education are not liable for their negligence or negligent acts of their employees, while engaged in the exercise of governmental functions imposed by law.

Since there is no liability attaching to said Boards, I do not deem it necessary nor proper for said Boards to secure liability insurance on their transportation trucks.