

April 27, 1937

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ARIZONA ATTORNEY GENERAL

Mr. W. C. Sawyer,  
Willcox City Schools,  
Willcox, Arizona.

Dear Mr. Sawyer:

This will acknowledge receipt of your letter of April 23, requesting an opinion as to the legality of a school district procuring and paying for public liability insurance on a truck owned and used by the district in hauling gravel to be used in the construction of a building project of the school district.

In the case of Hartford Accident and Indemnity Co. v. Wainscott, decided by the Arizona Supreme Court in 1933 and reported in volume 19, Pac. (2d) 328; in which case the Board of Supervisors of Maricopa County procured liability insurance on a fleet of trucks owned by the county, suit was brought to recover the amounts paid for such insurance, and recovery was had, the court said:

" . . . . neither the state nor any political subdivision thereof, . . . . is liable for the negligence of its agents when such agents are engaged in a governmental function".

A School district is a political or civil subdivision of the state formed for the purpose of aiding in the exercise of that governmental function which relates to the education of children or a district of and for the public schools, see volume 56 Corpus Juris at page 169.

It appears from the facts as set forth in your letter that the truck owned by the school district is being used in the performance of a governmental function; that is, hauling gravel to be used in the construction of buildings for the school district.

The Board of Trustees of a school district have only such powers as are expressly conferred upon them by statute and they can only spend school funds legally when the statutes authorizes it, if money is spent for a purpose which is not authorized by the statute, it is spent illegally. There is no expressed statutory authority for the Board to spend school monies for public liability insurance for trucks owned and used by a school district.

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It is therefore, the opinion of the Attorney General, that a Board of Trustee's of a school district may not legally spend school funds for the purpose of purchasing liability insurance for trucks or vehicles owned and used by the school district and that it is further our opinion that the school district, which is a political subdivision of the state, is not liable for the negligence of its agents when such agents are engaged in a governmental function.

Yours very truly,

JOE CONWAY  
Attorney General

J. M. JOHNSON  
Assistant  
Attorney General.

E. G. FRAZIER  
Special Assistant  
Attorney General.