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September 29, 1953  
Letter Opinion No. 53-118-L

The Honorable Clay Simer  
Arizona State Senator  
P. O. Box 402  
Winslow, Arizona

Dear Senator Simer:

This is in reply to your letter dated September 5, 1953 in which you request our opinion relative to the liability of school districts for injuries to pupils incurred while in attendance at school and during the period they are traveling between their homes and the school.

The well-established rule in this regard is that, in the absence of a statute imposing liability, a school district or school board is not liable for injuries to pupils of public schools suffered in connection with their attendance. (47 Am. Jur., Sec. 57.)

In discussing this matter the Arizona Supreme Court in the case of SCHOOL DISTRICT NO. 48 v. EDUARDO RIVERA, (1926) 30 Ariz. 1, 243 P. 609, explained the rule of non-liability of school agencies as follows (1. c. 3):

"They are involuntary corporations, organized not for the purpose of profit or gain but solely for the public benefit, and have only such limited powers as were deemed necessary for that purpose. Such corporations are but the agents of the state, for the sole purpose of administering the state system of public education . . . In performing the duties required of them they exercise merely a public function and agency for the public good for which they receive no private or corporate benefit. School corporations, therefore, are governed by the same law in respect to their liability to individuals for the negligence of their officers or agents as are counties and townships. It is well established that where subdivisions of the state are organized solely for a public purpose, by a general law, no action lies against them for an injury received by a person on account of the negligence of the officers of such subdivision, unless a right of action is expressly given by statute. Such subdivisions then, as counties,

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townships, and school corporations, are instrumentalities of government, and exercise authority given by the state, and are no more liable for the acts or omissions of their officers than the state."

In addition, this rule of non-liability has been extended to physical education and athletics. Since the physical education of school children in elementary and high school grades, including physical or gymnastic exercises, games, sports and the like, are generally considered a governmental function and, inasmuch as the physical development of children is as important to good citizenship as their mental development, it has been held that school districts, boards and other agencies in charge of public schools enjoy immunity from tort liability for personal injuries or death sustained by pupils from such activity, at least where only negligence is involved. (160 A.L.R. 168.)

Since Arizona has no statute imposing liability for injuries to pupils attending school and, under ordinary circumstances the school district would not be liable, therefore we believe it unnecessary to consider the question of whether parents could collect insurance for such injuries and in addition compel the school to pay all medical bills.

Very truly yours,

DAVID S. WINE  
Assistant to the  
Attorney General

DSW:PO