

1983 WL 182081 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

December 20, 1983

\*1 The Honorable Joyce C. Hearn  
Member  
House of Representatives  
1300 Berkeley Road  
Columbia, South Carolina 29205

Dear Representative Hearn:

You have requested the advice of this office as to whether school officials and personnel may be held liable for injuries to students resulting from the acts of other students on school property. In South Carolina, school districts are immune from suit, but teachers and other employees may not be extended this same protection. 1964-65 Ops. Atty. Gen. #1824; however, we express no opinion here as to what defenses or immunities may be available to such individuals.

Apparently, only one South Carolina Supreme Court case has addressed this question. [Hammond v. Scott](#), 268 SC 137, 232 SE2d 336, 338 (1977). It applied the following statement from 78 CJS Schools and School Districts § 238C:

A teacher in the public schools is liable for injury to pupils in his charge caused by his negligence or failure to exercise reasonable care . . . The mere fact that an accident happened in which a pupil was injured does not render the teacher liable, and a teacher or principal is not liable for injuries to a pupil where he was not negligent or where his negligence was not the proximate cause of the injury.

In making this application, the court said that ‘. . . it must be determined whether the teacher acted reasonably or unreasonably in relation to that which occurred in the classroom.’ Id. Hammond found no reasonable inference that the teacher ‘. . . failed to perform his duty in supervising the activity of the students and the classroom.’<sup>1</sup>

Other issues and fact situations associated with your question, including intentional acts of violence, are discussed more fully at [36 ALR 3d 330](#) and in the cases from other jurisdictions set forth therein. Although many are concerned with the liability of school districts as entities, the principles they discuss may be equally applicable to school personnel. Many of these cases appear to have found the question of foreseeability of harm to be central, but they differ in their views of this issue. [36 ALR 3d 330](#); See also [James v. Charlotte-Mecklenburg Board of Education](#), 300 SE2d 21 (NC App. 21, 1983); [Carson v. Orleans Parish School Board](#), 432 So 2d 956 (La. App. 4th Cir. 1983).

As noted above, South Carolina authority considering the questions you have posed is limited, and the conclusions reached by other jurisdictions are differing. Therefore, precise guidelines cannot be drawn here as to the extent of potential liability of school personnel for pupil injuries. Each situation would require consideration on its own merits such as determining whether the teacher concerned was negligent in the situation and whether the negligence resulted in injury. These details should be discussed with the school district's attorney in each instance. I am enclosing a copy of the ALR annotation, and I am hopeful that the information provided therein will be of some additional assistance to you.

Yours very truly,

\*2 J. Emory Smith, Jr.  
Assistant Attorney General

Footnotes

- 1 In this case a student was accidentally struck in the eye by a nail tossed at a trash can by another student in a woodworking shop class. The teacher was in an adjacent room at the time of the incident. He had previously instructed the class and the offending student, in particular, to drop items into the trash can rather than throw them at it.

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