

1980 WL 120624 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 24, 1980

*1 Mr. G. Ross Anderson, Jr.
Anderson & Epps
230 West Whitner Street
Anderson, South Carolina 29621

Dear Mr. Anderson:

You have recently requested the opinion of this office by your letter to Daniel R. McLeod dated November 14, 1979, concerning the civil liability of the Town of Pendleton and School District No. 4 in the event injuries occur to school safety patrol officers in the performance of their duties or to elementary school students directed by school safety patrol officers, together with injuries to patrol officers to and from their duty stations. Any civil suit brought under the factual situations in your letter could be faced with the 'defense' of sovereign immunity by the Town of Pendleton and/or School District No. 4. This matter was discussed with you generally by telephone on January 22, 1980, at which time you related that there was no probable liability.

The general rule regarding liability of Municipal Corporations in similar circumstances was stated in [Hill vs. Greenville](#), 223, S.C. 392, [76 SE 2d. 294 \(1953\)](#) wherein the Court held that 'a municipality is a political subdivision of the State for governmental purposes and partakes of the State's immunity from suit in tort except as expressly permitted by statute.' The rule is also stated in [McKenzie vs. City of Florence](#), 234 S.C. 428, [108 SE 2d. 825 \(1959\)](#).

This generally accepted principle also applies to school districts and boards. 'A school district is not subject to tort liability for injuries to pupils suffered in connection with their attendance.' OP ATTY GEN 3982 (March 3, 1975).

Also note OP ATTY GEN 1824 (March 20, 1965) where it is stated that 'an action for tort may not be maintained against a school district; however, this immunity does not apply to teachers or other employees of the district for their negligent or willful acts, resulting in an injury to another.'

There does not appear to be any direct statutes in the South Carolina Code of Laws which expressly waive a Municipal Corporation's or school districts' immunity in the circumstances stated above.

For your further consideration and assistance I have enclosed copies of the above mentioned Attorney General Opinions.

We appreciate your inquiry.

Sincerely,

Lyn H. Hensel
Attorney

ATTACHMENT

JANUARY 25, 1980

OPINION NO. _____

Kershaw County Council

SUBJECT: Dual office holding, Public Service Merit Selection Panel:

SYLLABUS: Membership on Public Service Merit Selection Panel does not constitute an office within the meaning of the dual officeholding provision of the Constitution.

James M. Holly
Assistant Attorney General

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