

1973 S.C. Op. Atty. Gen. 40 (S.C.A.G.), 1973 S.C. Op. Atty. Gen. No. 3465, 1973 WL 20929

Office of the Attorney General

State of South Carolina

Opinion No. 3465

January 25, 1973

***1 Regarding student utilization of personal or privately owned vehicles in traveling to and from the Daniel Morgan Vocational Center, the school and school district would be isolated from liability for any injury which might occur that could not be related directly to the negligent operation of 'governmental vehicles.'**

Director

Daniel Morgan Vocational Center

You have advised this Office of the present policy of your school regarding student utilization of personal or privately-owned vehicles in travelling to and from the Vocational Center and have requested our advice thereon. As I understand it, the students from several area high schools come to the Center for vocational skills training on a daily basis and thereafter return to their home high schools for general education courses. You have expressed concern for those legal consequences which might arise by reason of your policy in light of the present availability of school bus transportation.

As a general rule a school district is free from tort (injury) liability under the doctrine of sovereign immunity unless that immunity has been expressly waived by statute. Thus absent express statutory authorization, a school district cannot be sued for the negligent acts or omissions of its officers or employees. Such immunity, however, does not extend to a teacher, administrator or other employee who causes a pupil to receive injuries through their negligence or willfulness and such persons may be personally sued.

Similarly, unless liability is imposed by statute, a school district is not liable for injuries resulting from negligence in the operation of its motor vehicles or school buses or in its transportation of pupils generally despite the fact that such drivers or operators might be held personally accountable for their actions.

In 1968 our State Legislature enacted specific legislation allowing limited recovery against a governmental entity within the State for personal injuries caused by an employee's negligent operation of a motor vehicle while in and about the official business of such governmental entity. See South Carolina Governmental Motor Vehicle Tort Claims Act, § 10-2621 through 10-2625, Code of Laws of South Carolina (1962), as amended, a copy of which is enclosed. Additionally, and since 1953 the State Legislature has authorized the obtaining of insurance coverage on all state-owned school buses thereby affording some recovery for injuries sustained by persons lawfully occupying such buses or caused through the negligent operation thereof. See § 21-840 through 21-840.7 of the Code, copies of which are also enclosed. The foregoing Acts are restrictive of the right of recovery against the State, its agencies and political subdivisions (which term includes school districts).

The situation described by you of allowing students to transport themselves and others in personal or privately-owned vehicles would not in my opinion cause such students to be deemed governmental employees engaged in official business. Thus in answer to your question your school and school district would be isolated from liability for any injury which might occur that could not be related directly to the negligent operation of 'governmental vehicles' under the conditions prescribed in the enclosed Acts.

***2** It is, however, suggested that you revise your regulations regarding student drivers and riders so as to avoid seeking parental authorization as to which students their children may ride with or drive. Your present policy might give rise to a duty or obligation to supervise which students ride with which and thereby impose some personal liability for injuries directly attributable to inadequate supervision.

I believe that simply requiring parental consent as to those children who will be allowed to proceed to and from school by means other than the school buses provided would be more appropriate and would allow the schools to determine the number of buses needed. Parents should be advised that the effect of their giving such consent will be to return control of their children to them during these periods.

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