

Opinion No. 30**Apprentices—Apprentice Training Program—Vocational Education—
Board of Education—Vocational Training Centers—Tort
Liability—Sovereign Immunity**

- Held:** 1. The responsibility for the conduct of the related and supplemental classes conducted as a part of the apprentice training program is held by the State Board of Education and the board of trustees of any high school district, county high school or district high school which has been designated as a vocational training center.
2. Neither the State Board of Education nor the local high school district or board of trustees can be held liable for damages which may result from injuries suffered by an apprentice in connection with the related and supplemental classes conducted as a part of the apprentice training program.

November 12, 1957

Mr. James F. O'Brien
Montana State Apprenticeship Council
311 Allen Street
Helena, Montana

Dear Mr. O'Brien:

You have written asking if anyone is financially responsible or liable for the injuries which may occur to an apprentice while operating equipment in connection with related and supplemental classes conducted as a part of the apprentice training program.

An examination of the provisions of Section 41-1202, RCM, 1947, reveals that:

"Related and supplemental instruction for apprentices . . . shall be the responsibility of state and local boards responsible for vocational education . . ."

The state board responsible for vocational education is the State Board of Education under the supervision of the Superintendent of Public Instruction. Section 75-4242, RCM, 1947; 22 Report and Official Opinions of the Attorney General 154, No. 92. The local board which becomes responsible for vocational education is the board of trustees of any district high school, county high school or high school district which has been designated as vocational training center. Section 75-4301, RCM, 1947. Therefore, the related and supplemental instruction phase of the overall apprenticeship program is the responsibility of the State Board of Education and the local board of trustees of a high school district designated as a vocational training center.

It is settled law in this state that the state cannot be sued without its consent. *Heiser v. Severy et al.*, 117 Mont. 105, 158 Pac. (2d) 501; *Coldwater v. State Highway Commission*, 118 Mont. 65, 162 Pac. (2d) 772; *Mills v. Stewart*, 76 Mont. 429, 247 Pac. 332. This immunity from suit extends to the boards, commissions and agencies such as the State Board of Education, through which the state must act. See *Heiser v. Severy et al.*, supra. Further, it is equally well settled that neither a school district nor a board of trustees of such district are liable in tort for injuries arising out of the governmental activities of the school. *Perkins v. Trask, et al.*, 95 Mont. 1, 23 Pac. (2d) 982; *Bartell v. School District 28*, 114 Mont. 451, 137 Pac. (2d) 422; *Rhoades v. School District No. 9*, 115 Mont. 352, 142 Pac. (2d) 890; 24 Opinions of the Attorney General No. 43.

In the operation of the supplemental instruction classes for apprentices, the local boards and the State Board of Education are acting to implement the promotion of vocational education under the authority of state and federal legislation. Sections 75-4241, RCM, 1947, et seq.; Ch. 2, Title 20 U. S. C. A. As such both boards are engaged in a purely governmental as opposed to proprietary activity. *Johnson v. City of Billings*, 101 Mont. 462, 54 Pac. (2d) 579; *Jacoby v. Chouteau County*, 112 Mont. 70, 112 Pac. (2d) 1068.

It is therefore my opinion that neither the State Board of Education nor the local high school district or board of trustees, the bodies responsible for the conduct of the related and supplemental phase of the apprentice training program, can be held liable for the damages which may result from injuries suffered by an apprentice in connection with the related and supplemental classes conducted as a part of the apprenticeship training program.

Very truly yours,
FORREST H. ANDERSON
Attorney General