

MAINE STATE LEGISLATURE

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October 16, 1946

To H. V. Gilson, Commissioner

Re: Liability of Teachers, school board member, etc., for damages resulting from death or injury to pupils.

I have studied your memo of September 27th in regard to teachers, principals, superintendents and local school board members being liable for personal injuries in the event of death or injury sustained by children while under the supervision of the local school, and you ask my advice and consideration on this matter,

In reply I will say that the last case on this subject was decided in the case of Brooks vs. Jacobs, 139 Maine 371, in which the Court held that the relationship of teachers to their pupils is in the nature of in loco parentis; that is, the teacher is the substitute of the parent. It was further held that whether or not a school teacher is a public official, he is liable for personal acts of nonfeasance if he fails to discharge a duty owed to an injured person and such nonfeasance is the proximate cause of the injury.

In this State a public officer, as to public work over which he assumes control and direction, is liable not only for his affirmative act of negligence but also for his negligent inaction.

In the case of Guyten v. Rhodes, 29 N. E., 444 Ohio, the Court said, "If the teacher is liable for malfeasance, there appears no sound reason why he should not be held liable for either misfeasance or nonfeasance, if his acts or neglect are the direct proximate cause of injury to the pupil."

In the case of Gaincott v. Davis, 281 Mich. 515, 275 N.W. 229, the Court said, "At least in a limited sense the relation of a teacher to a pupil is that of one in loco parentis. We are not here concerned with the law applicable to the punishment of a pupil by a teacher; but rather with the law applicable to the duties of a teacher in the care and custody of a pupil. In the faithful discharge of such duties the teacher is bound to use reasonable care, tested in the light of the existing relationship. If, through negligence, the teacher is guilty of a breach of such duty and in consequence thereof a pupil suffers injury, liability results. It is not essential to such liability that the teacher's negligence should be so extreme as to be wanton or willful."

In these cases above cited, I am speaking of teachers. I feel that the same principle of law would apply to the principal who has supervision of the pupils and comes in direct contact with them.

In regard to the superintendents and local school board members, I feel that they would be liable for any injury sustained by children while under the supervision of the local school, if caused by any malfeasance, misfeasance or nonfeasance or dereliction in the performance of their duty which they, as public officers, are obliged to perform, which was the proximate cause of such injury or death of the pupil.

Personally, I have not heard of any cases since I have been in this office, where pupils have claimed injuries were the result of negligence of teachers, superintendents or principals; but I will say that the liability which the laws of the State impose upon a teacher, supervisor or school board member is the same as that of any other public officials, if he fails to discharge a duty to a pupil injured/while under his supervision.

Ralph W. Farris
Attorney General

RWF:c

Re-affirmed April 3, 1953 by James Flynn Frost.