

594.

APPROVAL, BONDS OF CITY OF DOVER, TUSCARAWAS COUNTY—  
\$13,600.00.

COLUMBUS, OHIO, July 3, 1929.

*Industrial Commission of Ohio, Columbus, Ohio.*

595.

MORAL OBLIGATIONS—DEFINED—BOARDS OF EDUCATION MAY  
RECOGNIZE SUCH CLAIMS.

**SYLLABUS:**

1. *Boards of education may lawfully, under proper circumstances, recognize moral obligations of the school district and pay claims as such from the public funds of the district.*

2. *A moral obligation of the State or a political subdivision thereof is a claim sounding either in tort or contract, whereby the State or political subdivision thereof, received some benefit, or the claimant suffered some injury, which benefit or injury would be the basis for a legal claim against the State or political subdivision, were it not that because of the intervention of technical rules of law, no recovery may be had.*

COLUMBUS, OHIO, July 5, 1929.

HON. HAROLD A. PREDMORE, *Prosecuting Attorney, Hillsboro, Ohio.*

DEAR SIR:—This will acknowledge receipt of your request for my opinion with reference to the following:

“Child seriously injured in the gymnasium in the Greenfield schools. It was necessary to call a local physician. It was also necessary that the child be confined in a hospital for some little time thereafter. The physician and hospital board have presented their bills for services rendered for said child to the board of education of Greenfield, Ohio.

Can the board of education legally pay from school funds either or both of the aforesaid bills which have been presented?”

It is well settled that boards of education, in the carrying out of their functions, act in a governmental capacity and cannot be held to respond in damages for either misfeasance or malfeasance. *McHenry vs. Board of Education*, 106 O. S. 357. In accordance with this principle, there is no doubt but that the board of education of Greenfield school district could not be held responsible in tort for damages on account of an injury received by a pupil in the gymnasium of the school.

In Opinion No. 261, rendered by me under date of April 4, 1929, and addressed to the Prosecuting Attorney of Wayne County, it was held:

“A board of education is not liable in its corporate capacity for damages