

In your letter you state that the deputy sheriffs desire to insure themselves and the sheriff against the liability herein discussed. An examination of the statutes discloses that there is no authority for the expenditure of public funds for such purpose and if it is desired by the sheriff or his deputies to procure such insurance, public funds may not be used to pay the premiums therefor.

I am therefore of the opinion, in specific answer to your questions, that:

1. Where a sheriff or one of his deputies operates a motor vehicle in a negligent manner in the performance of his official duties and damages another as a direct and proximate result thereof, the sheriff and the sureties on his bond are liable therefor.

2. Where a deputy sheriff operates a motor vehicle in a negligent manner in the performance of his official duties and damages another as a direct and proximate result thereof, such deputy sheriff is liable therefor.

Respectfully,

THOMAS J. HERBERT,
Attorney General.

1290.

BOARD OF EDUCATION—JURISDICTION—HAS AUTHORITY TO MAKE RULES AND REGULATIONS APPLICABLE ALIKE TO ALL PATRONS OF SCHOOL—CHILDREN WHO ATTAIN AGE OF SIX YEARS—TIME ADMITTED INTO PUBLIC ELEMENTARY SCHOOLS — COMPULSORY SCHOOL AGE—SIX AND EIGHTEEN YEARS—TIME BEGINS WHEN AGE SIX YEARS ATTAINED—TIME FIXED BY DISTRICT BOARD OF EDUCATION OF CHILD'S RESIDENCE.

SYLLABUS:

1. *The time in a school year when children who have attained the age of six years within the school year, may be admitted into the public elementary schools, is a matter entirely within the sound discretion of the board of education under whose jurisdiction the school is maintained. This discretion is to be manifested by the adoption of rules and regulations with respect to the matter, applicable alike to all patrons of the school.*

2. *The compulsory school age of children is the period between six and eighteen years of age, but this period does not begin for any particular child until the time within the school year that he attains the age of six, fixed by the rules and regulations of the board of education of the dis-*

trict of his residence for the admission of such children into the elementary grades of the schools in the district.

COLUMBUS, OHIO, October 11, 1939.

HON. J. EWING SMITH, *Prosecuting Attorney, Bellefontaine, Ohio.*

DEAR SIR: This will acknowledge receipt of your request for my opinion in answer to the following questions:

“1. Is a child, who will reach the age of 6 years after January first, but before the end of the first school semester, eligible to enter the first grade of school at the beginning of the first semester?

2. Can a local Board of Education prohibit a child, under such circumstances, from entering school at the beginning of the first semester?

3. Under the above circumstances, can the child be prohibited from attending the first grade at the beginning of the second semester?”

By the terms of Section 4750, General Code, a board of education is empowered to make such rules and regulations as it deems necessary for the government of the employes and the pupils of the school. The question of the time when children may first attend school is one of the matters with respect to which a board of education may establish rules and regulations. This is evidenced by the provisions of Section 7681, General Code, the pertinent provisions of which are as follows:

“The schools of each district shall be free to all youth between six and twenty-one years of age, who are children, wards or apprentices of actual residents of the district, but the time in the school year at which beginners may enter upon the first year’s work of the elementary schools shall be subject to the rules and regulations of the local boards of education.”

From the provisions of the above statute it clearly appears that the time in a school year when children who are beginning their school life may enter upon the first year’s work of the elementary schools, is a matter entirely within the discretion of the board of education in the district where the child is beginning to go to school. This time is to be fixed by rules and regulations of the board.

It will be observed from the provisions of Section 7681, General Code, *supra*, that the authority extended to boards of education by that statute to fix the time when children may begin to go to school empowers the board to fix that time “in the school year.” “School year” is defined

by Section 7689, General Code, which provides that the school year shall begin on the first day of July and close on the thirtieth day of June of the succeeding calendar year.

Although the law contains no provision expressly fixing the time when a semester begins and ends, it is generally understood that the period between the beginning of school sessions in the fall, or on or about the first week in September until approximately the first of February of the next calendar year constitutes the first semester and the remainder of the school year until the summer vacation the second semester. With this understanding, the provision of Section 7681, General Code, referred to above empowers a board of education to fix the time when a child who becomes six years of age after January first, and before the end of the first semester, may enter school, either at the beginning of the first or the beginning of the second semester or at any other time within the school year during which he had attained the age of six. Conversely, a board of education may under such circumstances, adopt rules that would amount to an inhibition upon such children entering the first grade of elementary schools at the beginning of the first semester, or so far as the strict letter of the law is concerned, the beginning of the second semester providing the rules are such that they operate equally upon all the patrons of the schools in the district and permit the entrance in the school of such children at some time in the school year during which they attain the age of six. In fact, the matter is entirely in the hands of the board of education who, in the exercise of sound discretion, may fix the time within a school year when children who have attained the age of six in that school year may enter the elementary schools by rules and regulations applicable alike to all such children in their respective districts.

The legislature in recognition of the right of a board of education to fix the time within a school year as provided by said Section 7681, General Code, when pupils may be extended the privilege of attending school, made provision in later legislation with respect to the compulsory attendance of children in school to the effect that the compulsory school age, although fixed at six years, should not begin until the time fixed by the board of education that the child would be allowed to attend school. Note with respect thereto, the provisions of Section 7762, General Code, which provides in part, as follows :

“A child between six and eighteen years of age is ‘of compulsory school age’ for the purpose of this chapter; but the board of education of any district may by resolution raise the minimum compulsory school age of all children residing in the district to seven, subject to subsequent modification to six; and the compulsory school age of a child shall not commence until the beginning of the term of such schools, or other time in the school year fixed by the rules of the board of education of the district

in which he resides adopted under section seven thousand six hundred eighty-one of the General Code, next following his arrival at the minimum age prescribed hereby or hereunder.”

In answer to your questions, therefore, I am of the opinion that the matter of when a child may first be permitted to enter upon the work of the elementary grades in the public schools is entirely within the sound discretion of the board of education of the school district wherein the pupil is about to attend school, which discretion is to be manifested by rules and regulations applicable alike to all patrons of the school and is subject to the limitation that the time fixed must be within the school year during which the child attains the age of six years.

Respectfully,

THOMAS J. HERBERT,
Attorney General.

1291.

LEASE—OFFICE SPACE, TO STATE BY THE PENN MUTUAL LIFE INSURANCE COMPANY, ROOMS 306, 307, 308, 10 SOUTH MAIN STREET, AKRON, SUMMIT COUNTY, USE, SALES TAX SECTION, DEPARTMENT OF TAXATION.

COLUMBUS, OHIO, October 13, 1939.

HON. CARL G. WAHL, *Director, Department of Public Works, Columbus, Ohio.*

DEAR SIR: You have submitted for my examination and approval a certain lease executed by The Penn Mutual Life Insurance Company, a Pennsylvania Corporation, in and by which there are leased and demised to the State of Ohio, acting through you, as Director of the Department of Public Works, certain premises for the use of the Sales Tax Section of the Department of Taxation.

By this lease, which is one for a period of sixteen months, commencing on the 1st day of September, 1939, and ending on the 31st day of December, 1940, and which provides for the rental during said term of \$960.00, payable in monthly installments of \$60.00 each, there are leased and demised to the State of Ohio for the use of the Sales Tax Section of the Department of Taxation, the following described premises:

“Situating in the City of Akron, County of Summit and State of Ohio, and being office rooms 306-307 and 308 located on the third floor of the building known as No. 10 South Main