

2071

EDUCATION—INSURANCE; STUDENTS, DRIVING TRAINING VEHICLES—NO LIABILITY ON BOARD; NO AUTHORITY TO PURCHASE INSURANCE.

SYLLABUS:

A board of education is without authority to procure a policy of insurance, insuring operating driver training vehicles against liability or providing any coverage in favor of said students while engaged in taking a driver training course.

Columbus, Ohio, May 5, 1958

Hon. James A. Rhodes, Auditor of State  
State House, Columbus, Ohio

Dear Sir:

I have before me your communication in which you request my opinion as to the authority of a board of education to procure liability insurance to protect a pupil who is driving an automobile while taking a driver training course. In your letter you say:

“I find nothing in the law that would permit or require a school district to procure a policy of insurance insuring students operating such driver training vehicles against liability or to provide any coverage in favor of such students while they are engaged in taking such driver training courses.”

You also refer to Section 3327.09, Revised Code, which authorizes a board of education to procure liability insurance covering each school

bus and accident insurance covering pupils while being transported under the authority of the board of education.

It is quite obvious that that section could have no possible relation to the question which you present.

You also refer to Section 3313.201, Revised Code, which authorizes a board of education to procure liability insurance protecting officers and employees of a school district while operating motor vehicles owned or operated by the school district. It is equally plain that a pupil while engaged in learning to drive and while taking a driver training course is neither an officer or employee of the board of education and hence could not come within the purview of that statute.

I agree with your statement that there is nothing in the law that would permit or require a school district to procure a policy of insurance insuring students operating such driver training vehicles, against liability or providing any coverage in favor of such students while so engaged.

Few principles of law are better settled than that a public body which is created by statute has only such powers as the statute expressly given it, together with such powers as are necessarily implied from the powers granted. 32 Ohio Jurisprudence, 933.

In the same work this principle is applied specifically to boards of education. In 36, Ohio Jurisprudence, 188, it is said:

“\* \* \* Although it has been said that under the present school laws boards of education are given almost unlimited powers, their authority is derived solely from statute, both duties and authority being clearly defined by legislation, and is limited strictly to such powers as are expressly granted or clearly implied.”

See also, *Board of Education v. Best*, 52 Ohio St., 138; *Board of Education v. Volk*, 72 Ohio St., 469; *Perkins v. Bright*, 109 Ohio St., 14; *Schwing v. McClure*, 120 Ohio St., 335.

Numerous other decisions might be cited and a great many opinions of this office might also be cited in support of this proposition.

Accordingly, it is my opinion and you are advised that a board of education is without authority to procure a policy of insurance, insuring

students operating driver training vehicles against liability, or providing any coverage in favor of said students while engaged in taking a driver training course.

Respectfully,  
WILLIAM SAXBE  
Attorney General