

3470.

APPROVAL, NOTES OF MADISON TOWNSHIP RURAL SCHOOL DISTRICT, FRANKLIN COUNTY, OHIO—\$7,000.00.

COLUMBUS, OHIO, August 1, 1931.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.

3471.

MORAL OBLIGATIONS—WHEN BOARD OF EDUCATION MAY RECOGNIZE SUCH CLAIMS—SPECIFIC CASE.

SYLLABUS:

Where a child attending the public schools is injured during its attendance at school, under circumstances which would render the board of education liable in damages for such injury, were it not protected by the rule of non-liability in tort which exists in favor of governmental agencies acting in a governmental capacity, the board of education, in its discretion, lawfully may recognize as a moral obligation, a claim for damages growing out of said injury and pay the same or any part of the same from public funds.

COLUMBUS, OHIO, August 3, 1931.

HON. J. L. CLIFTON, *Director of Education, Columbus, Ohio.*

DEAR SIR:—This will acknowledge receipt of your request for my opinion, which reads as follows:

“A pupil was injured in the manual training shop of a public school while working under the direction of the teacher. The board of education apparently will pay the bill of the physician and surgeon who took care of the injury if the board may do this legally, expending the money from the current funds of the school district. Please advise whether such expenditure may legally be incurred.”

In a former opinion, reported in the Opinions of the Attorney General for 1929 at page 378, it is held:

“A board of education is not liable in its corporate capacity for damages for an injury resulting from the use of the machines or apparatus in the manual training department of a school.”

To the same effect is the holding of the Court of Appeals in the case of *Conrad, a Minor, v. Board of Education of Ridgeville Township*, 29 O. A. 317, where it is held:

“In the absence of a statute specifically creating a civil liability a board of education is not liable in damages to a pupil who is taking manual training course in its mechanical department and who suffers injury