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Alabama School of Mathematics
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1255 Dauphin Street
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Alabama School of Mathematics
and Science - State Insurance
Fund - Liability Insurance -
Employee Injury

The Alabama School of Mathe-
matics and Science may insure
property through the State
Insurance Fund, but cannot
participate in the general
liability and employee injury
compensation programs.

Dear Dr. Laurenson:

This opinion is issued in response to your request for
an opinion from the Attorney General.

QUESTION

The Alabama School of Mathematics
and Science requests you to determine
whether the school is eligible for the
insurance coverages as specified by the
Code of Alabama 1975, Sections 36-1-6.1,
41-15-1, and the Acts of Alabama, Act No.
94-680.

FACTS AND ANALYSIS

The Alabama School of Mathematics and Science is an independent, residential school for gifted and talented children. It exists pursuant to Sections 16-26A-1, et seq., Code of Alabama 1975; is governed by a twenty-one member board of directors; and is located in Mobile, Alabama.

The three insurance programs which are the subject of your inquiry are the following: the general liability trust fund, established pursuant to Section 36-1-6.1; the state insurance fund, created by Sections 41-15-1, et seq.; and the state employees injury compensation program, created by Act No. 94-680, codified at Sections 36-29A-1, et seq. All three of these programs are administered by the State of Alabama Department of Finance's Division of Risk Management.

The general liability trust fund provides liability protection for negligent or wrongful acts or omissions committed by state employees or agents of the state, including foster parents and foster care providers, while in the performance of official duties in the line and scope of employment. However, "(t)he provisions of this section shall not apply to any educational institution or board in this state." Section 36-1-6.1(e). While the Division of Risk Management may institute new insurance programs with the approval of the governor and finance director, such new programs may not conflict with existing law. Section 41-4-302. Because educational institutions and boards are excluded from coverage by the law creating the general liability trust fund, the Alabama School of Mathematics and Science may not participate in that program.

The state insurance fund insures direct physical loss on buildings and contents "in which title in whole or in part is vested in the State of Alabama or any of its agencies or institutions or in which funds provided by the state have been used for the purchase of the land, construction of the building, purchase or maintenance of any equipment, machinery, furniture, fixtures or supplies in such buildings and public school buildings. . . ." Section 41-15-1. The Alabama School of Mathematics and Science may insure its buildings and contents through the state insurance fund provided the said buildings satisfy the broad criteria set forth above.

The state employee injury compensation program provides eligible state employees with protection comparable to

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worker's compensation. However, the statute does not apply "to . . . any educational institution. . . ." Section 36-29A-7.

CONCLUSION

The Alabama School of Mathematics and Science may insure its buildings and contents with the state insurance fund, provided the buildings meet the criteria set forth in Section 41-15-1, but cannot participate in the general liability and employee injury compensation programs because of specific statutory language which excludes educational institutions from coverage.

I hope this sufficiently answers your question. If our office can be of further assistance, please do not hesitate to contact Jerry Carpenter, Legal Division, Department of Finance.

Sincerely,

JEFF SESSIONS
Attorney General
By:


JAMES R. SOLOMON, JR.
Chief, Opinions Division

JS/JC/ms

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