

Insurance - Texas Tort Claims Act and Texas Public School Districts

The Texas Legislature has shielded school districts from most claims, under the rationale that while unfortunate injuries may occur at school, the best use of public education funds is for educational purposes rather than for litigation and the payment of damages. A school district may be held liable, under state law, for damages arising out of an employee's negligent operation or use of a motor vehicle.

If injuries and/or property damages have not occurred as the result of the negligent use or operation of a vehicle, there is no district liability. To pay any claim, for which the district has no liability is a gift of public funds which is forbidden by the State Constitution. For this reason the Texas Education Code does not permit school districts to use public resources for individual purposes.

The Texas Tort Claims Act as codified in the [Texas Civil Practices and Remedies Code](#), gives school districts a broad grant of immunity in section 101.001 from tort claims then sets forth certain limited exceptions to that immunity. Section 101.001(3) (B) provides that a [school district](#) is a governmental unit within the meaning of the statute.

Section 101.021 provides that a governmental unit may be held liable for personal injuries or [wrongful death](#) if the injuries resulted from the negligent operation of a motor vehicle by an employee of a governmental unit acting in the course and scope of their employment.

Section 101.023 of the Texas Civil Practice and Remedies Code sets damages caps for different types of governmental units. Claims against the state government are subject to a limitation of liability of \$250,000 for each person and \$500,000 for each single occurrence. The liability of a unit of local government is limited to \$100,000 per person and \$300,000 per occurrence. A [school district](#) is a unit of local government.

Section 101.101 provides for special notice provisions which require strict compliance. School districts are entitled to receive notice of a claim within six months of the injury producing accident. The notice must reasonably describe the alleged injury, the time and place of the incident, and the incident. Practitioners would be well advised to send a certified notice letter to school district superintendent at the first opportunity.

Section 101.106 sets forth so-called election of remedies provisions which could easily cause the unwary practitioner to unwittingly waive a portion of a claim.

Texas Tort Claims Act

<http://www.statutes.legis.state.tx.us/Docs/CP/htm/CP.101.htm>

Texas Constitution, Section 52

<http://www.statutes.legis.state.tx.us/Docs/CN/htm/CN.3.htm>

