



ROLAND W. BURRIS
ATTORNEY GENERAL
STATE OF ILLINOIS

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FILE NO. 92-007

SCHOOLS AND SCHOOL DISTRICTS:
Status of Regional
Superintendent of Schools

Honorable Thomas J. Brown
State's Attorney, Livingston County
Livingston County Courthouse
Pontiac, Illinois 61764

Dear Mr. Brown:

I have your predecessor's letter wherein he inquired whether a regional superintendent of schools is considered a State employee, for purposes of indemnification and representation under section 1 of the State Employee Indemnification Act (Ill. Rev. Stat. 1989, ch. 127, par. 1301), or, alternatively, whether a regional superintendent is considered a county employee, whom the county is responsible for indemnifying or insuring against liability. For the reasons hereinafter stated, it is my opinion that a regional superintendent of

schools is neither a State employee nor a county employee, for these purposes.

A regional superintendent of schools is an elected official who is the chief administrative officer of an educational service region. (Ill. Rev. Stat. 1989, ch. 122, pars. 3-.01, 3-1.) The title of the office was changed from "county superintendent of schools" to "regional superintendent" by Public Act 79-1057, effective October 1, 1975. An educational service region may be composed of a single county, or of two or more counties which have been consolidated into one service region. (Ill. Rev. Stat. 1989, ch. 122, pars. 3A-1, 3A-3.) The regional superintendent serves, in certain respects, as an intermediary between the State Board of Education and the school districts in his or her region, and also coordinates teacher training and workshops, gathers information, reports to county boards on finances and carries out other administrative duties with respect to education. The State's Attorney of the county in which the superintendent's office is located is the legal representative of the regional superintendent. (Ill. Rev. Stat. 1989, ch. 122, par. 3A-15.)

Section 2 of the State Employee Indemnification Act (Ill. Rev. Stat. 1989, ch. 127, par. 1302) provides generally for the representation and indemnification of "State" officers and employees in civil law suits arising out of their duties. Subsection 1(a) of the State Employee Indemnification Act (Ill.

Rev. Stat. 1989, ch. 127, par. 1301(a)), which defines the term "State", specifically provides that the term does not include any "local public entity", as defined in section 1-206 of the Local Governmental and Governmental Employees Tort Immunity Act. (Ill. Rev. Stat. 1990 Supp., ch. 85, par. 1-206.)

Section 1-206 was amended by Public Act 86-1332, effective September 7, 1990, to include educational service regions within the definition of "local public entity". Therefore, because the regional superintendent is the chief administrative officer of a local public entity, rather than an agency or instrumentality of the State, it is my opinion that he or she is not a State employee for purposes of the State Employee Indemnification Act.

Moreover, it is my opinion that the regional superintendent is not considered a county officer or employee, for purposes of representation or indemnification. Although the regional superintendent performs certain duties with respect to the county board (see Ill. Rev. Stat. 1989, ch. 122, pars. 3-5, 3-6), and the county board also performs certain duties with respect to the regional superintendent (Ill. Rev. Stat. 1989, ch. 122, par. 4-1 et seq.), section 1-206 of the Local Governmental and Governmental Employees Tort Immunity Act clearly differentiates between educational service regions and counties. As a local public entity under the Local Governmental and Governmental Tort Immunity Act, an educational

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service region is empowered to protect itself and its employees and officers against liability pursuant to article 9 of that Act (Ill. Rev. Stat. 1989, ch. 85, par. 9-101 et seq.).

Consequently, consideration of the regional superintendent as a county officer or employee for purposes of tort liability would be redundant and unnecessary.

For the reasons herein stated, it is my opinion that a regional superintendent of schools is not considered either a State employee or county employee, for purposes of protection from liability for tortious acts. Therefore, the regional superintendent is not eligible for representation or indemnification under the State Employee Indemnification Act, nor is a county required to provide insurance or other protection from liability to the superintendent. The educational service region may, however, indemnify the superintendent for any tort judgment or settlement for compensatory damages as provided in article 9 of the Local Governmental and Local Governmental Employees Tort Immunity Act.

Respectfully yours,

A handwritten signature in cursive script, appearing to read "Roland W. Burris".

ROLAND W. BURRIS
ATTORNEY GENERAL