

IN CONNECTICUT, SOVEREIGN IMMUNITY AND STATE AND MUNICIPAL INDEMNIFICATION STATUTES, INCLUDING THOSE APPLICABLE TO BOARDS OF EDUCATION, BAR LEGAL ACTIONS BY MINOR VICTIMS ALLEGING SEXUAL ABUSE. HOWEVER, PRECISELY THESE SAME ACTIONS ARE ALLOWED AGAINST NON-GOVERNMENTAL OR PRIVATE ENTITIES.

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General Rule The Sovereign Is Immune. Connecticut common law has long recognized sovereign immunity. *Pope v. City of New Haven*, 99 A. 51 (Conn. 1916); *Gordon v. Bridgeport Housing Authority*, 208 Conn. 161, 544 A.2d 1185 (Conn. 1988) ("Connecticut has not abolished governmental immunity.").

Sovereign Immunity Only Allows Liability for "ministerial acts" of employees.

"Ministerial acts" are contrasted with "discretionary acts" and refer to a "duty which is to be performed by the political subdivision in a prescribed manner without the exercise of judgment."

Durrant v. Bd. of Educ. of the City of Hartford, 284, Conn. 91, 96 (2007)

Negligent Supervision and Hiring is "discretionary," not "ministerial." See, e.g., *Doe v. Bd. of Educ.*, 76 Conn. App. 296 (2003)

Exceptions to Sovereign Immunity § 52-557n(a)(1)(A)-(C)

1. Exceptions (B-C) not applicable here
2. Sexual abuse universally held to be outside of the scope of employment or official duties (Exception A).
3. Identifiable person subject to imminent harm exception generally held not applicable.

Sovereign Immunity Bars Liability for "criminal, willful, or malicious conduct."

Con. Gen. Stat. § 52-557n(a)(2)(A). Again, sexual misconduct involving minors universally found to be outside scope of employment and to be criminal or malicious, thus subject to sovereign immunity.

Not aware of any Connecticut cases where municipalities or public school boards have been found liable for sexual abuse of minors based on negligence theories.

General Rule: Limited Indemnification of Claims based on Employee Actions.

Employees are generally liable for their own tortious conduct. See *Burns v. Bd. of Educ.*, 228 Conn. 640, 645 (Conn. 1994). Public entities are protected by several Connecticut statutes which provide for indemnification for employees actions only in limited circumstances. Statutory limits include:

- (1) Acts subject to indemnity must be within duties of employment;
- (2) Acts which are willful or wanton are not indemnified;
- (3) Notice of intent to sue must be given within **six months** after the claim arose;
- (4) Statute of limitations requiring lawsuit within **two years** after claim accrued;
- (5) Goal of Prevention by Early Notice.

See, e.g., Conn. Gen. Stat. §§ 7-465, 7-101a (municipalities); § 10-235 (school boards); § 4-165 (state officers and employees); § 19a-24 (public health employees).

Therefore, Both Sovereign Immunity and Indemnification Statutes Bar Childhood Sexual Abuse Claims

See *Roe v. City of Waterbury*, 542 F.3d 31, 42 (2d Cir. 2008) (holding that pursuant to Conn. Gen. Stat. §52-577(n) (a) (2)(A) governmental immunity protected the city from liability when the mayor sexually abused 2 minors); *Doe v. Petersen*, 279 Conn. 607, 903 A.2d 191 (Conn. 2006) (sovereign immunity applied to bar claim by 15 year old victim of sexual assault by town employee who attempted to report the assault to a different town employee).