

out authority. Officers and agents in charge of the station are not liable to trespassers of mature intelligence. If reasonable safeguards have been provided, officers and agents are not liable under the attractive nuisance doctrine for injuries to trespassing children. 36 Atty. Gen. 565.

36.34 History: 1953 c. 505; Stats. 1953 s. 36.34; 1955 c. 467, 689; 1957 c. 401; 1961 c. 610; 1965 c. 433 s. 121; 1967 c. 26; 1967 c. 29 s. 4; 1967 c. 291 s. 14; 1969 c. 154 s. 377; 1969 c. 276 s. 603 (1), (3).

Problems arising under a proposal to develop a shopping center on lands of the university of Wisconsin are discussed in 46 Atty. Gen. 83 and 47 Atty. Gen. 9 and 124.

36.36 History: 1959 c. 620 s. 4; Stats. 1959 s. 36.36; 1969 c. 276 s. 603 (4).

36.43 History: 1969 c. 229; 1969 c. 392 s. 18; Stats. 1969 s. 36.43.

36.45 History: 1969 c. 89; Stats. 1969 s. 36.45.

36.46 History: 1969 c. 296; Stats. 1969 s. 36.46.

36.47 History: 1969 c. 26; Stats. 1969 s. 36.47.

36.49 History: 1969 c. 27; Stats. 1969 s. 36.49.

36.50 History: 1939 c. 174; Stats. 1939 s. 348.55; 1955 c. 696 s. 287; Stats. 1955 s. 36.50.

CHAPTER 37.

State Universities.

37.01 History: 1969 c. 276; Stats. 1969 s. 37.01.

An action on a teacher's contract and for the reasonable value of services as manager of the school cafeteria was not maintainable against the board of regents, as such board is an agency of the state to perform specified administrative duties and the state has not waived immunity to suit. *Sullivan v. Board of Regents*, 209 W 242, 244 NW 563.

37.02 History: 1866 c. 116; 1869 c. 151 s. 26; 1878 c. 227; R. S. 1878 s. 394; Stats. 1898 s. 394; 1913 c. 758 s. 3; 1917 c. 453 s. 3; Stats. 1917 s. 37.02; 1919 c. 531; 1929 c. 468 s. 3; 1945 c. 20; 1947 c. 28; 1949 c. 486; 1951 c. 268, 548; 1953 c. 61, 402; 1955 c. 144; 1959 c. 460; 1963 c. 419; 1965 c. 215; 1969 c. 58; 1969 c. 276 ss. 249, 594 (1), 602 (1), (4).

On loaning the credit of the state see notes to sec. 3, art. VIII; and on contracting state debts see notes to sec. 4, art. VIII.

The board of regents of the normal schools has no authority to employ attorneys. 1908 Atty. Gen. 871.

The board of regents cannot appear or permit an instructor to appear before a legislative committee at its expense except on matters relating to normal schools. 4 Atty. Gen. 167.

The board of regents has no power to lease any of the lands under its control for hospital purposes without express authority from the legislature. 6 Atty. Gen. 527.

The board of regents has implied authority to pay expenses of applicants, coming to the schools for conferences looking toward future employment, out of available public funds. 7 Atty. Gen. 167.

The board of regents has no power to grant an easement across school grounds for construction of an electric power line. 20 Atty. Gen. 330.

The board of regents may pay North Central Association of Schools and Colleges for membership dues and inspection fees of teachers' colleges seeking to be accredited in that association. However, the inspection fee may not be paid in advance of inspection. 23 Atty. Gen. 784.

The board of regents has power to acquire title to real estate suitable for dormitory purposes under plan whereby a nonstock, non-profit corporation having title thereto would convey the title to said board subject to its retaining possession and use for such a period as would enable the corporation by operating the property as a dormitory for state college students to amortize a real estate mortgage thereon, after which event said board of regents would directly manage said property. 34 Atty. Gen. 260.

State college property may be used for educational purposes solely and none other. Such property is not available to private organizations for religious instruction. 36 Atty. Gen. 522.

The board of regents has no statutory authority to lease lands to a city on a 15-year lease for recreational purposes. 39 Atty. Gen. 275.

The board of regents is not authorized to provide for curbs and gutters on state-owned property bordering city streets, and such property is exempt from special taxes or assessments where such improvements are furnished by the city. 40 Atty. Gen. 281.

37.03 History: 1866 c. 116 s. 11; 1869 c. 151 s. 24, 36; 1870 c. 29 s. 2; 1876 c. 13 s. 1; R. S. 1878 s. 395; Stats. 1898 s. 395; 1905 c. 168 s. 2; Supl. 1906 s. 395; 1917 c. 453 s. 3; Stats. 1917 s. 37.03; 1969 c. 276.

37.05 History: 1913 c. 200; Stats. 1913 s. 396a; 1917 c. 453 s. 3; Stats. 1917 s. 37.05; 1951 c. 548; 1969 c. 276 s. 602 (1), (4), (5).

37.055 History: 1969 c. 59; Stats. 1969 s. 37.055.

37.06 History: 1866 c. 116 s. 6; 1867 c. 30 s. 3; 1869 c. 151 s. 25, 30, 42; 1876 c. 13 s. 2; R. S. 1878 s. 397; Stats. 1898 s. 397; 1917 c. 453 s. 3; Stats. 1917 s. 37.06; 1919 c. 362 s. 19; 1945 c. 20; 1951 c. 548; 1969 c. 276.

37.07 History: 1869 c. 151 s. 27; 1875 c. 5 s. 1; R. S. 1878 s. 401; 1879 c. 98; Ann. Stats. 1889 s. 401; 1895 c. 296; Stats. 1898 s. 401; 1905 c. 168 s. 4; Supl. 1906 s. 401; 1917 c. 453 s. 3; Stats. 1917 s. 37.07; 1945 c. 20; 1947 c. 9 s. 31; 1949 c. 179; 1951 c. 548; 1959 c. 228 s. 66; 1969 c. 276 s. 602 (1), (4).

Under 37.07, Stats. 1919, the secretary of the board of regents certifies only as to the action of the board; he does not pass on the correctness of a claim. 8 Atty. Gen. 575.

37.08 History: 1909 c. 495; 1911 c. 663 s. 18; Stats. 1911 s. 401m; 1913 c. 758 s. 2, 3;

1917 c. 447 s. 4; 1917 c. 453 s. 3; 1917 c. 628 s. 6; 1917 c. 671 s. 12; Stats. 1917 s. 37.08; 1945 c. 20; 1951 c. 548; 1959 c. 659 s. 53; 1969 c. 276.

37.09 History: 1875 c. 5 s. 2; R. S. 1878 s. 402; Stats. 1898 s. 402; 1917 c. 453 s. 3; Stats. 1917 s. 37.09; 1945 c. 20; 1951 c. 548; 1957 c. 73; 1969 c. 276 s. 602 (1).

37.10 History: 1866 c. 116 s. 7; 1869 c. 151 s. 31; R. S. 1878 s. 403; Stats. 1898 s. 403; 1913 c. 48; 1913 c. 773 s. 103; Stats. 1913 s. 403, 579p; 1917 c. 453 s. 3; 1917 c. 578 s. 3; Stats. 1917 s. 37.10, 41.03; 1919 c. 328 s. 37; Stats. 1919 s. 37.10; 1945 c. 20; 1947 c. 368; 1949 c. 643; 1951 c. 548; 1957 c. 73; 1963 c. 224; 1967 c. 29 s. 5; 1967 c. 92 s. 22; 1967 c. 313; 1969 c. 276 ss. 254, 602 (1), (4).

37.11 History: 1869 c. 151 s. 30, 32, 33, 37, 39; R. S. 1878 s. 404; Stats. 1898 s. 404; 1909 c. 204; 1913 c. 758 s. 3; 1917 c. 453 s. 3, 8; Stats. 1917 s. 37.11; 1919 c. 679 s. 9; 1925 c. 101; 1927 c. 292; 1927 c. 425 s. 8; 1929 c. 428; 1931 c. 67 s. 157; 1931 c. 442; 1935 c. 535; 1937 c. 108, 215; 1937 c. 349 s. 3; 1937 c. 380; 1939 c. 142; 1943 c. 18; 1945 c. 20, 361, 581; 1951 c. 548; 1953 c. 249, 271; 1955 c. 37, 469, 475, 652, 690; 1957 c. 73, 632, 635; 1959 c. 22; 1961 c. 15; 1963 c. 224, 475; 1965 c. 163, 463; 1967 c. 26 s. 93; 1967 c. 294; 1969 c. 154, 255; 1969 c. 276 ss. 255, 256, 595 (1), 602 (1), (2), (4); 1969 c. 366, 455.

The power of summary removal is discretionary, and courts will not inquire into or question its exercise. The provision conferring it enters into every contract made between the board and teachers, and cannot be bargained away or restricted. After a teacher has been removed and notice of the fact has been given him, he has no right to any further compensation. *Gillan v. Board of Regents*, 88 W 7, 58 NW 1042.

See note to sec. 3, art. I, on limitations imposed by the Fourteenth Amendment, citing *Soglin v. Kauffman*, 418 F (2d) 163.

See note to sec. 1, art. I, on limitations imposed by the Fourteenth Amendment, citing *Marzette v. McPhee*, 294 F Supp. 562, and *Stricklin v. Regents*, 297 F Supp. 416.

See note to sec. 3, art. I, on limitations imposed by the Fourteenth Amendment, citing *Lee v. Board of Regents of State Colleges*, 306 F Supp. 1097.

The board of regents cannot delegate its power to fix salaries, nor pay increased compensation to anyone employed by it, after the work is performed or services rendered; but where work is performed or services are rendered without any agreement as to compensation, it may pay what such work is reasonably worth. Under 37.07 the secretary of the board certifies only as to action of the board; he does not pass upon the correctness of a claim. 8 Atty. Gen. 575.

A minor child who has been emancipated and who has established residence in the state may attend normal school without paying nonresident tuition even though the parents of such child are nonresidents. 17 Atty. Gen. 419.

Scholarships provided by (12) are limited in number as to any particular school. Under (13) there is no limitation as to number and regents are bound merely to exercise reason-

able discretion as to whether students meet qualifications prescribed. Both subsections are permissive rather than mandatory. 25 Atty. Gen. 43.

Under 37.11 (8), Stats. 1945, nonresident tuition is not chargeable in the case of a Wisconsin woman who has married a soldier who was formerly a resident of another state but who while stationed in Wisconsin and prior to the marriage furnished evidence of an intention to permanently locate in Wisconsin and who after the marriage resided with his wife in Wisconsin. Under the circumstances stated his subsequent removal to camps outside Wisconsin for short periods of time prior to overseas service does not result in the loss of his Wisconsin residence or that of his wife who accompanied him until he was sent overseas. 35 Atty. Gen. 3.

The board of regents is charged with the government of all state teachers colleges, and through its officers may make provision for compulsory physical examinations of all students, irrespective of the religious beliefs of such students. 38 Atty. Gen. 220.

Athletic receipts at state teachers colleges are state moneys which must be deposited in the state treasury. Under 37.11 (8), Stats. 1949, fees which state teachers colleges collect from students must be deposited in the state treasury even though such fees are used in part for student controlled extra-curricular activities. Funds belonging to student organizations at state teachers colleges should not be intermingled with state funds and need not be deposited in the state treasury. State teachers colleges may audit and supervise expenditures of student organizations without thereby rendering these moneys state funds. 38 Atty. Gen. 516.

Liability of a minor for the payment of nonresident tuition at state teachers colleges depends upon the residence of his parents. 39 Atty. Gen. 44.

See note to 36.06, citing 52 Atty. Gen. 217.

Under 37.11 (8) (a) a resident minor student does not lose status when parents remove from the state subsequent to student's 21st birthday. 54 Atty. Gen. 27.

See note to 36.16, citing 54 Atty. Gen. 68.

The regents may adopt administrative rules regulating on-campus parking and charge a fee therefor. Violations would be subject to ch. 288. Authority is vested in local municipality to regulate parking on streets or drives on university lands. 56 Atty. Gen. 4.

A dependent minor student whose parents reside in another state and work full time in Wisconsin would not be entitled to exemption from nonresident tuition unless the other state has provided for tax reciprocity similar to 71.03 (2) (c). 56 Atty. Gen. 40.

37.115 History: 1959 c. 424; 1959 c. 660 s. 36; Stats. 1959 s. 37.115; 1961 c. 278; 1967 c. 276 s. 602 (1), (2), (5).

37.12 History: 1911 c. 631 s. 9; Stats. 1911 s. 406a (5); 1917 c. 14 s. 62; 1917 c. 453 s. 3; Stats. 1917 s. 37.12; 1945 c. 20, 581; 1949 c. 629; 1951 c. 548; 1955 c. 37; 1959 c. 22; 1967 c. 294; 1969 c. 276 ss. 257, 602 (1), (4).

37.13 History: 1869 c. 151 s. 38, 39; 1875 c. 96; R. S. 1878 s. 405; 1885 c. 186; Ann. Stats. 1889 s. 405, 458d; Stats. 1898 s. 405, 4972 sub.

14, 15; 1909 c. 204; 1917 c. 453 s. 3; Stats. 1917 s. 37.13; 1919 c. 601 s. 1; 1945 c. 20; 1951 c. 548; 1969 c. 276 ss. 589 (2) (b), 602 (1), (2), (4).

37.29 History: 1935 c. 397, 445; Stats. 1935 s. 40.22 (12); 1953 c. 90 s. 170; Stats. 1953 s. 37.29; 1955 c. 146 s. 16; 1969 c. 276 ss. 602 (1), 603 (2).

37.30 History: 1925 c. 114; Stats. 1925 s. 40.30 (9); 1927 c. 425 s. 9; Stats. 1927 s. 37.30; 1935 c. 550 s. 400; 1943 c. 229; 1945 c. 20; 1951 c. 548; 1955 c. 146; 1969 c. 276 ss. 583 (1), 602 (1), 603 (1).

37.31 History: 1931 c. 185; Stats. 1931 s. 37.31; 1937 c. 142; 1951 c. 438, 548; 1953 c. 61; 1955 c. 10; 1965 c. 497; 1969 c. 233; 1969 c. 276 ss. 259, 602 (4); 1969 c. 424 s. 26.

The board of regents cannot assign a permanent teacher in a state teachers college to a named position in which his principal occupation is that of teaching, and then effect his discharge by subsequent action abolishing the position although continuing the work. State ex rel. Karnes v. Board of Regents, 222 W 542, 269 NW 284.

A teacher who has completed his probationary period is guaranteed tenure "during efficiency and good behavior," and any discharge for a cause that does not qualify as inefficiency or bad behavior is contrary to law and reviewable in certiorari. State ex rel. Ball v. McPhee, 6 W (2d) 190, 94 NW (2d) 711.

A teacher in a teachers college who is permitted to serve the required period acquires permanent tenure. Action of the board of regents in discharging the teacher is reviewable by certiorari. 21 Atty. Gen. 38.

A teacher whose probationary period at a state teachers college is interrupted by military service is to be restored to the probationary status which he had at the time of leaving the state service to enter the military service. 35 Atty. Gen. 150.

The right of a teacher to permanent employment subject to removal for cause arises upon completion of the required period of teaching in a teachers college, irrespective of any notice to the teacher, either prior to or subsequent to the completion of the final probationary year of teaching, that he will or will not be employed for the following year. 39 Atty. Gen. 212.

A teacher in a state college who retires June 30 pursuant to 37.11 (2), Stats. 1951, is entitled to be paid for summer leave which he would have received but for retirement. 42 Atty. Gen. 33.

37.36 History: 1969 c. 154; Stats. 1969 s. 37.36.

CHAPTER 38.

Special Schools.

38.01 History: 1969 c. 276; Stats. 1969 s. 38.01.

38.13 History: 1911 c. 616; 1911 c. 664 s. 146; Stats. 1911 s. 553p-1; 1913 c. 772 s. 70; 1915 c. 515; 1917 c. 494; 1917 c. 578 s. 3; 1917 c. 671 s. 38; 1917 c. 677 s. 23, 24, 25; Stats. 1917 s. 41.13; 1919 c. 362 s. 32; 1927 c. 425 s. 119; 1937 c. 349; 1945 c. 72; 1947 c. 9 s. 31;

1947 c. 89; 1949 c. 52, 350; 1951 c. 33; 1951 c. 319 s. 236; 1955 c. 10; 1957 c. 528; 1959 c. 659 s. 79; 1961 c. 51; 1961 c. 359 s. 2; Stats. 1961 s. 41.13, 41.15 (1), (2); 1963 c. 224; 1965 c. 163 ss. 57, 58; 1965 c. 287; 1965 c. 292 ss. 3, 6, 11 (3); 1965 c. 463; Stats. 1965 s. 41.13; 1969 c. 154; 1969 c. 276 ss. 275, 276, 594 (1), 595 (1), 604 (3); 1969 c. 501; Stats. 1969 s. 38.13.

The state vocational board may not direct expenditure of funds received from the U. S. government for vocational aid except in compliance with restrictions and conditions of federal laws. 31 Atty. Gen. 30.

38.14 History: 1957 c. 453; Stats. 1957 s. 41.14; 1965 c. 292 s. 11 (3); 1969 c. 276 ss. 275, 277, 604 (3); Stats. 1969 s. 38.14.

38.146 History: 1965 c. 83, 292; Stats. 1965 s. 41.146; 1969 c. 276 ss. 275, 616; Stats. 1969 s. 38.146.

38.15 History: 1911 c. 616; 1911 c. 664 s. 146; Stats. 1911 s. 553p-3; 1915 c. 515 s. 2; 1917 c. 578 s. 3; 1917 c. 675; 1917 c. 677 s. 27 to 30; Stats. 1917 s. 41.15; 1919 c. 362 s. 37; 1921 c. 377; 1921 c. 442 s. 17; 1927 c. 425 s. 121; 1929 c. 13; 1931 c. 147; 1937 c. 213, 349; 1939 c. 265, 303; 1945 c. 142, 560; 1947 c. 344; 1949 c. 342, 639; 1951 c. 33, 372; 1953 c. 61; 1957 c. 224; 1959 c. 446; 1961 c. 359, 585, 622, 655; 1963 c. 52, 418; 1965 c. 163, 252; 1965 c. 292 ss. 6, 11 (3); 1967 c. 92 s. 22; 1969 c. 276 ss. 275, 604 (3), 616; 1969 c. 392 s. 84; Stats. 1969 s. 38.15.

On district schools see notes to sec. 3, art. X.

The statutory scheme, specifically as reflected in 41.15 (9), (14) and (17), Stats. 1961, clearly recognizes that a school operated by a vocational and adult educational board of a municipality is an agency or department thereof, and such a municipality is properly a party to a suit answerable to judgment in an action instituted by one injured in an accident. Severson v. Beloit, 42 W (2d) 559, 167 NW (2d) 258.

A member of a local board of industrial education cannot be employed as a teacher in vocational schools. 4 Atty. Gen. 671.

The title to property acquired for vocational schools must be in the city. The board of industrial education may erect buildings therefor on any city grounds with the consent of the proper authority. 6 Atty. Gen. 765.

A married woman employing a maid, but not herself employed, is not a "representative employe" and is not eligible for appointment as such to membership on the local board of industrial education. 9 Atty. Gen. 124; 10 Atty. Gen. 932.

The local board of industrial education is given full power by 41.15 and 41.16, Stats. 1921, to expend funds provided for such education, including the purchase of grounds, supplies and equipment, drawing plans, erecting buildings, and managing vocational schools. 10 Atty. Gen. 942.

Members of a local board of industrial education are appointed under 41.15, which does not require them to take the oath of office. If they do not take the oath of office they are de facto officers, if not de jure, and their acts are valid. 10 Atty. Gen. 1048.

In a city of less than 5,000 population the establishment of a vocational school is optional with the school board, but such school, once