

Memorandum to: Mr. Justice Powell
From: Sam Estreicher
Date: October 29, 1977

Re: Monell v. Dep't of Social Services of the City of New York

Petrs have filed a reply brief. Essentially, they restate their argument that, under state law, the Board of Education is a separate entity from the City of New York. Petrs point out that the Board has been vigorously litigating a serious monetary claim against the City; that a substantial portion of its budget comes from the state and federal governments (out of a \$2.8b budget for fiscal year 1976, \$811m was contributed by the state and \$294m came from the feds; these figures seem awfully high, even for the Big Apple); and that the money to pay claims against the Board "come[s] out of the City Treasury only in the sense that the City holds the board's money for the latter and must pay it over upon the latter's order."

In my view, the ^{pertinent} ~~critical~~ question is whether the Board has independent taxing authority; to the best of my knowledge, it does not. In any event, unless Monroe is reexamined, all state and local governmental entities would seem to be excluded from the term "person" in § 1983.