

3-C | WHO MAY BE LIABLE UNDER SECTION 1983?

Any person acting under color of state law (state action requirement):

1) Local governments, municipalities, and individual municipal agents acting in official capacities may be liable. Monnell v. Department of Social Services, 436 U.S. 658 (1978).

A municipality may only be held liable for acts that it officially sanctioned or ordered OR where the constitutional deprivation occurred as a result of a custom or policy of the municipality Board of County Comm'rs of Bryan County v. Brown, 520 U.S. 397 (1997).

Municipalities & local governments not liable for legislative (as opposed to administrative) acts.

2) State governments

a) State governments and officials in official capacity are immune from suit. State governments are not divested of Eleventh Amendment immunity, even when the state is indemnified by the federal government for litigation costs as well as costs of adverse judgments. Regents of University of Cal., 519 U.S. 425 (1997).

b) A state official may be sued in his/her individual capacity.

3) Section 1983 does not apply to the federal government (in most instances). Therefore, actions by federal officials, unless taken in conjunction with state officials or pursuant to local custom, law, or regulation, cannot be challenged in a Section 1983 suit.

4) Section 1983 does not apply to private entities unless they become enmeshed in governmental entity.

Rendell-Baker v. Kohn, 457 U.S. 830 (1982):

Rendell-Baker addressed the issue of a privately owned university which was 90% publicly subsidized and whether Section 1983 was applicable to its employment practices. The United States Supreme Court found no state action, noting that the symbiotic relationship between the private entity and the state was not present.



Likewise, hospitals and utilities have been found free of state action even though substantial state funding and regulation were present.

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