

SUMMARIES OF ATTORNEY GENERAL OPINIONS

The Secretary of State’s Office is required to publish summaries of Attorney General Opinions under A.R.S. § 41-1013(B)(4). The following Attorney General Opinions were issued between July 1 and December 31, 2005. For copies of these opinions, call (602) 542-5025 or view them online at the Attorney General’s web site:

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Opinion Number	Date of opinion	Opinion summary
No. I05-004	July 25, 2005	Re: Open Meeting Law Requirements and E-mail to and from Members of a Public Body Summary Answer Board members must ensure that the board’s business is conducted at public meetings and may not use e-mail to circumvent the OML requirements. When members of the public body are parties to an exchange of e-mail communications that involve discussions, deliberations or taking legal action by a quorum of the public body concerning a matter that may foreseeably come before the public body for action, the communications constitute a meeting through technological devices under the OML. While some one-way communications from one board member to enough members to constitute a quorum would not violate the OML, an e-mail by a member of a public body to other members of the public body that proposes legal action would constitute a violation of the OML.
No. I05-005	October 24, 2005	Re: Augmenting AIMS Scores Based on Grades in Certain Courses Summary Answer Students may add points to their AIMS scores to fulfill graduation requirements based on grades received in the courses that satisfy the eleven and one-half credits the State Board specifies in Arizona Administrative Code (“A.A.C.”) R7-2-302(1)(a-f).
No. I05-006	November 14, 2005	Re: Campaign Finance Reports Filed By Candidates Pursuant to A.R.S. §§ 16-941(B)(2) and -958 Summary Answer Under the Citizens Clean Elections Act (the “Act”), nonparticipating candidates must file campaign finance reports with the Secretary of State when their campaigns reach certain statutory thresholds in collections or spending. The Act requires the Citizens Clean Elections Commission (the “Commission”) to prescribe the form for these and other reports that the Act requires. A.R.S. § 16-956(A)(3). The Commission has adopted rule R2-20-109, which requires that reports filed pursuant to A.R.S. §§ 16-941 and -958 contain the same information regarding receipts and disbursements as A.R.S. § 16-915 requires.
No. I05-007	December 20, 2005	Re: Reporting Responsibilities of Teachers and School Volunteers under A.R.S. § 13-3620 Summary Answer 1. Teachers must immediately and independently ensure that the information regarding suspected abuse is reported to a peace officer or child protective services. Section 13-3620(A), A.R.S., (the Reporting Statute) requires all school personnel who reasonably believe that a minor is or has been a victim of child abuse or neglect to “immediately report or cause reports to be made of [the] information to a

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peace officer or to child protective services.” Although informing a principal or other supervisor is advisable, this does not necessarily satisfy the teacher’s duty to ensure that the information regarding the suspected abuse is conveyed to a peace officer or child protective services.

2. A school volunteer is required to report suspected abuse under the Reporting Statute if the volunteer is responsible for the care or treatment of a child.

3. Whether a particular volunteer has a duty to report child abuse depends on the facts and circumstances. School volunteers who perform administrative tasks or assist teachers are generally not responsible for the care or treatment of children; however, there may be volunteers who, for example, accompany children on field trips or perform other functions in which, based on the facts and circumstances, they are responsible for the care of children.

4. A volunteer who has a duty to report does not necessarily satisfy this responsibility by reporting the matter to a teacher or other school employee. The volunteer must ensure the information is conveyed to a peace officer or child protective services.

No. I05-008	December 28, 2005	Re: Affiliated practice relationships between dental hygienists and dentists Summary Answers
		1. The general and direct supervision requirements in Arizona Revised Statutes (“A.R.S.”) §32-1281 do not apply to affiliated practice relationships. Instead, A.R.S. § 32-1289(H) requires a dentist in an affiliated practice relationship to “be available to provide an appropriate level of contact, communication, and consultation with the affiliated dental hygienist.”
		2. The supervision limitation in Arizona Administrative Code (“A.A.C.”) R4-11-603 does not apply to affiliated practice relationships which are governed by A.R.S. § 32-1289.
		3. Section 32-1289(G)(2) authorizes the Board to adopt a rule limiting the number of affiliated practice relationships in which dentists and hygienists may participate.

No. I05-009	December 29, 2005	Re: Public Benefits under Federal Law and A.R.S. § 46-140.01 Summary Answers
		1. Programs identified as federal public benefits in the DHHS Notice dated August 4, 1998 are not subject to the requirements of A.R.S. § 46-140.01 because A.R.S. § 46-140.01 expressly applies only to “state and local public benefits.” The programs identified in the DHHS notice are, however, subject to the eligibility restrictions, and verification and reporting requirements that apply to federal public benefits as set forth in 8 U.S.C. § 1611 and other federal laws.
		2. Programs identified in 8 U.S.C. § 1611(b) or 8 U.S.C. § 1621(b) as exceptions to the alienage eligibility restrictions that otherwise apply to federal public benefits and state and local public benefits are not subject to the requirements of A.R.S. § 46-140.01.
		3. Programs listed in the U.S. Department of Justice Notice of Final Order dated January 16, 2001, as necessary for the protection of life or safety, are not subject to the requirements of A.R.S. § 46-140.01 if the programs are community based, provide in-kind (non-cash) services, and do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient’s income, as required by 8 U.S.C. § 1621(b)(4).
