

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 January 1 and June 30, 2007. 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
I07-001	January 29, 2007	Re: Application of open Meeting Laws to Board of Trustees created under A.R.S. § 11-952.01 Yes. The Board of Trustees appointed by the political subdivisions under A.R.S. § 11-952.01 constitutes a public body under A.R.S. § 38-431(6). In administering an employee benefits program on behalf of the political subdivisions that created it, the Board constitutes an instrumentality of those political subdivisions. Moreover, one or more of the participating political subdivisions appoints each trustee on the board. Therefore, the Board falls within the definition of “public body” in A.R.S. § 38-431(6) and must comply with the Arizona Open Meeting Law.
I07-002	February 7, 2007	Re: Proposition 202 (Minimum Wage Law) and the Disabled Worker The State’s new minimum wage enacted in Proposition 202 applies to developmentally disabled workers. ¹ The “special certificate” minimum wage authorized by the federal Fair Labor Standards Act (FLSA) at 29 U.S.C. § 214(c) for disabled workers, which allows employers to pay a special minimum wage to disabled individuals, was not incorporated in Proposition 202 and is therefore inapplicable. Although the text of Proposition 202 does not explicitly repeal former A.R.S. § 23-362, the language of the two directly conflict with one another and cannot be read together harmoniously. Therefore, the more recent enactment controls, and Proposition 202 impliedly repeals former A.R.S. § 23.362.
I07-003	March 5, 2007	Re: Interpretation of HB 2874: Salary and Benefit Increases for School District and Charter School Nonadministrative Personnel 1. School districts and charter schools may use the funds appropriated in the Legislation for any increases in salaries and benefits for nonadministrative personnel in fiscal year 2006-2007, including increases that were negotiated before the Legislation was enacted. 2. School districts and charter schools should use fiscal year 2005-2006 salary and benefit levels to determine increases resulting from the Legislation’s appropriation.
I07-004	March 19, 2007	Re: Insurance Producer License Applicants and 2005 Amendments to A.R.S. § 20-284(A) Section 20-284, A.R.S., as amended by 2005 Ariz. Session Laws, Ch. 126, applies only to examinations administered after the effective date of the Act. Therefore, an applicant who took the examination before the effective date for the Act, August 12, 2005, but filed the application after that date, is not subject to the 120-day requirement of A.R.S. § 20-284(A).

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I07-005	April 6, 2007	<p>Re: Implementation of Proposition 300 With regard to Adult Education Services</p> <ol style="list-style-type: none">1. Proposition 300 became effective on December 7, 2006. The first report to the JLBC regarding implementation of the Proposition is due June 30, 2007.2. Under the Proposition, only citizens, legal residents of the United States, and others lawfully present in this country are eligible to receive adult education services through the Department of Education (“Department”). Because the Proposition does not mandate a specific screening process to determine eligibility, the Department is responsible for establishing procedures to determine that people receiving adult education services are eligible to participate in those programs. This process may include, for example, self declarations subject to penalty of perjury or a review of appropriate documents. Any process must be implemented in a nondiscriminatory manner.3. Federal law does not invalidate or preempt Proposition 300.
I07-006	April 9, 2007	<p>Re. Reporting Requirements Under the Child Abuse Reporting Statute, A.R.S. § 13-3620</p> <p>“Physical injury” is “the impairment of physical condition and includes any skin bruising, pressure sores, bleeding, failure to thrive, malnutrition, dehydration, burns, fracture of any bone, subdural hematoma, soft tissue swelling, injury to any internal organ or any physical condition that imperils health or welfare.”</p> <p>An injury need not be serious or life threatening to trigger the reporting obligation. All that is necessary is that the injury meet the statutory definition and that person covered by the Reporting Statute have a reasonable belief that the infliction of the injury was non-accidental. In addition, the Reporting Statute does not excuse reporting in situations where particular classes of persons inflict non-accidental physical injury on children, be they other minors, students, siblings, or minors who lack the cognitive ability to control their behavior.</p> <p>The obligation to report may be removed if the covered person reasonably believes that facts exist that would negate the offense.</p> <p>Finally, covered persons must report suspected abuse “immediately.” This requires that the person make or cause the required report to be made without delay as soon as he or she forms a reasonable belief that the child has been abused. Specific knowledge that the incident has been reported by another caregiver satisfies this obligation.</p>
I07-007	May 1, 2007	<p>In one-half of one percent of the qualified electors in the special district exceeds 250 voters, a candidate need only collect 250 signatures to satisfy the requirements of A.R.S. § 16-322(A)(12).</p>
I07-008	May 10, 2007	<p>Re: Use of Official Titles by Elected Officials in Connection with Political Advocacy</p> <p>County elected officials may use their official titles on materials that advocate the success or defeat of ballot measures, but they may not use county public resources to fund such communications.</p>

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- I07-009 May 10, 2007 Re: Guest Speakers at School-Sponsored Assemblies and the Limitations of A.R.S. § 15-511
1. A public school may invite an elected official or candidate for public office to address students, but candidates may not advocate their election or the defeat of their opponents in violation of Arizona Revised Statutes (“A.R.S.”) § 15-511.
 2. A public school may invite a well-known public figure who can give students a historical perspective on past and current events even if those issues relate to a pending ballot measure, but the address must not advocate the election or defeat of the ballot measure.
 3. School districts should consider advising speakers at school-sponsored assemblies of the prohibitions in A.R.S. § 15-511 against using school resources to influence elections. If a speaker unambiguously advocates voting in a particular manner, school officials are responsible for determining if corrective action is appropriate to make clear that the school is not endorsing the speaker’s political view.
 4. The analysis of A.R.S. § 15-511 does not change if participation at the student assembly is voluntary.