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OFFICE OF THE  
**Attorney General**  
STATE CAPITOL  
Phoenix, Arizona 85007

*R75-388*  
BRUCE E. BAGBITT  
ATTORNEY GENERAL  
*75-219*

July 28, 1975

Mr. John L. Huerta  
Director  
Arizona Department of  
Economic Security  
P. O. Box 6123  
Phoenix, Arizona 85005

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**ARIZONA ATTORNEY GENERAL**

Dear Mr. Huerta:

This letter is in response to Mr. Henry Diaz' June 16, 1975 request for an opinion of this office concerning whether or not it is permissible for a child protective services specialist of the State Department of Economic Security to interview a child at school without parental permission as part of that specialist's responsibility to investigate a referral to the Child Protective Services Division of the Arizona Department of Economic Security.

A.R.S. § 8-546.01.C provides, among other things, that a protective services worker shall:

3. Upon receipt of such information, make a prompt and thorough investigation which shall include a determination of the nature, extent, and cause of any condition which is contrary to the child's best interests and the name, age, and condition of other children in the home.
4. Take a child into temporary custody if there are reasonable grounds to believe that the child is suffering from illness or injury or is in immediate danger from his surroundings and that his removal is necessary. Law enforcement officers shall cooperate with the department to remove a child from the custody of his parents, guardian, or custodian when necessary.

A.R.S. § 8-223.A also authorizes a child protective services specialist of the State Department of Economic Security, as well as a law enforcement officer, to take a child into temporary custody if there are reasonable grounds to believe that the child is suffering from illness or injury, or is in immediate danger from his surroundings, and that his removal is necessary.

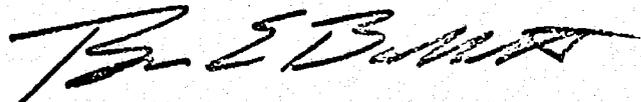


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Since a protective services worker is given the power to take a child into temporary custody under the circumstances set forth in §§ 8-223.A and 8-546.01.C.4, he is implicitly given the power to question or interview that child concerning those circumstances if he reasonably believes them to be present. Furthermore, there is nothing in the Arizona Constitution or statutes which indicates that an exception has been carved out from the application of the above-mentioned statutory provisions when children are upon school property.

Consequently, a protective services worker cannot be prohibited from coming upon school property to question a child if that worker reasonably believes that the child is suffering from illness or injury or is in immediate danger from his surroundings, provided that the questioning is limited to those matters. No parental consent is necessary. In this connection, it is our belief that the board of trustees of a school district may adopt a rule, pursuant to A.R.S. §§ 15-441.A and 14-442.A.6, prohibiting a protective services worker from questioning a child while such child is rightfully within the custody of the school authorities with respect to any matter not related to an illness of or injury or immediate danger to the child. In other words, we do not believe that A.R.S. § 8-546.01.C.3 gives a protective services worker authority to question a child while he is rightfully within the custody of the school authorities with respect to matters not encompassed within A.R.S. §§ 8-223.A.3 and 8-546.01.C.4.

Sincerely,



BRUCE E. BABBITT  
Attorney General

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