

1977 WL 37354 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

June 6, 1977

*1 Ms. Jennie W. Alexander

Director

Lexington County Department of Social Services

Post Office Box 447

Lexington, South Carolina 29072

Dear Ms. Alexander:

You have asked whether a protective services worker in the performance of her duties may talk to a student on school grounds during school hours without written parental permission.

The South Carolina Code of Laws, 1962, § 71-10 states that:

The State Department may make investigations into the administration and affairs of any institution or agency, public or private, concerned with the care, custody or training of persons or the handling of problems of delinquency, dependency or defectiveness.

With respect to reports of alleged child abuse or neglect the S.C. Code further provides under § 20-310.1 (c):

With three days following such oral report, [of child abuse or neglect] an investigation shall be made by the County Department of Social Services . . . and a written report prepared . . . Coupled with the statutory power to investigate any institution, public or private, concerned with care or training of persons and the legislative mandate under Section 20-310.1(c) that a county department shall investigate reports of child abuse or neglect, the Department of Social Services has a legal duty to do so.

While the State jealously protects and in many instances is mandated to assist the continuation of the parental relationships, it has the undoubted authority in cases of child abuse and neglect to take such actions as are authorized by legislation to protect children from the abuse and neglect of parents or guardians. [See, e.g., 59 AM.JUR.2d 92, Parents and Child §§ 9, 10 (1969).]

In view of the foregoing statutory duty of the Department of Social Services to investigate reported cases of child abuse and neglect and applicable law regarding the right of a state to enact such legislation, it is my opinion that pursuant to State law, an agency protective services worker may, in the performance of her duties, enter upon school grounds and talk to a student during school hours without parental consent.

SOUTH CAROLINA DEPARTMENT OF SOCIAL SERVICES

Frank S. Potts

General Counsel

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