

AMPHITHEATER UNIFIED SCHOOL DISTRICT NO. 10
OF PIMA COUNTY, ARIZONA,
a Political Subdivision of the State of Arizona

In Re:) **RESOLUTION OF THE GOVERNING**
) **BOARD DIRECTING ISSUANCE OF**
YVONNE R. BERNINO) **NOTICE OF INTENTION**
) **NOT TO RENEW CONTRACT OF**
) **EMPLOYMENT**

Pursuant to A.R.S. § 15-536, the Governing Board ("the Board") of Amphitheater Unified School District No. 10 of Pima County, Arizona ("the District") hereby resolves and directs the Superintendent to provide notice to Yvonne R. Bernino ("Bernino") of the Board's intention not to renew Bernino's contract of employment with the District on, at a minimum, the following grounds of unprofessional conduct:

I. Employment History

- A. The Board first employed on or about August 3, 2010, when it hired her to serve as a Culinary Arts teacher at the District's Canyon Del Oro High School ("CDO"). Bernino was employed pursuant to an employment contract for the 2010-2011 school year.
- B. The Board renewed Bernino's employment for the 2011-2012 school year as a Culinary Arts Teacher at CDO.
- C. During each year of her employment with the District, Bernino's contract of employment required that she agree to "faithfully perform the duties as may be assigned according to law, rules, policies and regulations legally established for the governance of the District as are in effect or may be amended during the term of this contract."
- D. Bernino has been issued a teaching certificate by the Arizona State Board of Education.

II. Factual Allegations Supporting Non-Renewal

- A. On or about September 8, 2011, Bernino took a group of several students from the Culinary Arts/FCCLA Club at CDO to an event at Harvest Moon Chinese Cuisine, located at 12125 North Oracle Road, in Oro Valley, Arizona ("the event"). The event was advertised as an "Imperial Dinner", which was promoted by the restaurant as a celebration of Chinese culture and foods and included an eleven (11) course meal.

- B. As an option, the event also included wine pairings with courses of the meal. The cost of the event was \$70.00 per person with wine pairings; for those not drinking wine, the cost was \$35.00 per person.
- C. Bernino solicited students to attend the event and arranged for the students' Culinary Arts/FCCLA Club to pay the cost of the event for those students who were attending and for the club to also pay the cost of the event for herself. Student club funds of \$315.00 were used for these purposes. Bernino included the cost of the wine pairings in the costs paid for by student club funds.
- D. As the CDO faculty sponsor for the Culinary Arts/FCCLA Club, Bernino at all times relevant to this notice and the facts described herein on duty and responsible for the care and supervision of students attending the event.
- E. At the event:
- Ms. Bernino and the students were seated together at one table;
 - After they were seated, restaurant staff removed wine glasses from the place settings where the students were sitting;
 - Ms. Bernino retained her wine glasses and was served alcoholic wine by the restaurant throughout the event;
 - Ms. Bernino drank the wine served to her at the table where she and the students were seated;
 - Ms. Bernino indicated to students that she wanted them to understand the "full experience of the meal" (or words to that effect) and passed her wine glass so that students could drink some of her wine;
 - Before passing her wine glass, Ms. Bernino indicated that she knew she "should probably not be doing this" (or words to that effect), and also indicated to the students that she "knew" none of the students would "say anything" that "could get [her] in trouble" (or words to that effect); and
 - Several students did drink some of Ms. Bernino's wine.
- F. None of the students who attended the event were of the legal drinking age.

III. Statement of Relevant State Laws and Governing Board or District Policies or Regulations

Ms. Bernino's behavior at the event, by procuring and using student funds to pay for her alcoholic wine pairings, by drinking alcoholic beverages while on duty and in view of students entrusted to her care and supervision, and by providing wine to her students, violated the following provisions of state law and Governing Board/District policy:

- a. Arizona Revised Statutes:

- a) A.R.S. § 13-3613, which prohibits and makes unlawful the act of any person who causes, encourages or contributes to the delinquency and dependency of minors;
- b) A.R.S. § 4-101, which sets the legal drinking age at 21 years of age;
- c) A.R.S. § 4-241, which prohibits and makes unlawful, the procuring of any spirituous liquor with the intention of giving the spirituous liquor to a person under lawful drinking age, and
- d) A.R.S. § 4-244, which prohibits and makes unlawful furnishing or giving spirituous liquor to a person under the lawful drinking age;

2. Arizona State Board of Education Regulations:

- a) R7-2-1308(B)(9), which provides that any person issued a teaching certificate by the Arizona State Board of Education shall not, “Possess, consume, or be under the influence of alcohol on school premises or at school-sponsored activities”; and
- b) R7-2-1308(B)(15), which provides that any person issued a teaching certificate by the Arizona State Board of Education shall not, “Engage in conduct which would discredit the teaching profession”.

3. Governing Board/District Policies and Regulations:

- i. Governing Board Policy GBEA, which provides that, “It is the duty of the District's Governing Board members and employees to maintain professional ethics at all times. In that regard, the school employee:
 - Makes the well-being of students the fundamental value of all decision making and actions.
 - Maintains just, courteous, and proper relationships with students, parents, staff members, and others.
 - ...
 - Fulfills job responsibilities with honesty and integrity.
 - ...
 - Obeys local, state, and national laws and does not knowingly join or support organizations that advocate, directly or indirectly, the overthrow of the government.

- Implements the Governing Board's policies and administrative rules and regulations.
- ...
- Avoids using position for personal gain through political, social, religious, economic, or other influence.
- Maintains the standards and seeks to improve the effectiveness of the profession through research and continuing professional development.
- Stresses the proper use and protection of all school properties, equipment, and materials.
- ...
- Makes reasonable effort to protect the student from conditions harmful to learning or to health and safety.”

ii. District Regulation GBEB-R, which provides that, “Unprofessional conduct by a teacher includes, but is not limited to, the following:

- ...
- a. Failure to comply with teacher's duties and/or conduct in violation of any rules, regulations, and policies of the Governing Board.
- b. Failure to comply with the appropriate statutes as passed by the legislature concerning teacher's duties and conduct.
- ...
- c. Commission and/or final conviction of a felony or a misdemeanor that:
 - i. Involves moral turpitude; and/or
 - ii. Adversely affects the ability of the teacher to function in the assigned capacity as an educator.
- ...
- d. Aiding and abetting and/or contributing to the delinquency of a minor.”

iii. Governing Board Policy GBEC, which provides that “No employee shall ... use, on or in the workplace, ... alcohol....”

iv. Governing Board Policy GBECA, which provides that, as to District employees, “The ... use of alcohol is forbidden on school property or at school-sponsored activities away from school property.”

v. Governing Board Policy GBECB, which provides that, for employees of the District, “The use or possession of intoxicants

or illegal drugs on school property or at school events is prohibited.”

- vi. Governing Board Policies JIC and JICH, and the Student Code of Conduct, all of which prohibit the use of alcohol of students.

Approved by the Governing Board this _____ day of April, 2012.

Ms. Diana Boros
President of, and on behalf of, the
GOVERNING BOARD

AMPHITHEATER UNIFIED SCHOOL DISTRICT
NO. 10 of Pima County, Arizona

(Public Seal of Amphitheater
Unified School District No. 10
of Pima County, Arizona)