

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
Katia Garcia Huerta)	NOTICE OF INTENTION
)	NOT TO RENEW CONTRACT OF
<hr/>)	EMPLOYMENT

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 Katia Garcia-Huerta ("Garcia-Huerta") of the Board's intention not to renew Garcia-Huerta'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 Garcia-Huerta on or about July 30, 2008, when it hired her to serve as a School Counselor at the District's Amphitheater High School ("AHS") for the 2008-2009 school year.
- B. The Board renewed Garcia-Huerta's employment for the 2009-2010 school year. Thereafter, the Board determined not to renew Garcia-Huerta's employment, and Garcia-Huerta's employment with the District terminated at the conclusion of the 2009-2010 school year.
- C. On August 6, 2010, the Board again hired Garcia-Huerta to serve as a School Counselor at AHS for the 2010-2011 school year, and renewed Garcia-Huerta's employment for the 2011-2012 school year.
- D. During each term of her employment with the District, Garcia-Huerta's contracts of employment required that she faithfully perform her duties "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."

II. Factual Allegations Supporting Non-Renewal

- A. In October and November of 2011, the Board employed David Rogers ("Rogers") as a teacher at AHS.
- B. Jon Lansa, Principal of AHS ("Principal Lansa"), was a supervisor of both Rogers and Garcia-Huerta.

- C. Between October 26 and 28, 2011, Principal Lansa received information regarding Rogers which called into question the professionalism of his interaction with a 16 year old female AHS student ("Jane Doe"). The information suggested that Rogers made complementary, even flirtatious comments to Jane Doe by electronic means. In addition, the information suggested that Rogers had specifically made comments to Jane Doe about her coming over to his house, that Jane Doe may have been to Rogers' home, and that Rogers had been driving Jane Doe home in his personal vehicle without school permission. But as of October 28, 2011, Principal Lansa had not received any information suggesting that there had been physical contact between Rogers and Jane Doe.
- D. Based upon the information which Principal Lansa had received as of October 28, 2011, the District placed Rogers on administrative leave with pay on that same date, pending further investigation of Rogers' behavior with regard to Jane Doe.
- E. Principal Lansa placed Rogers on administrative leave during a private meeting on October 28, 2011 between him and Rogers. Shortly after this private meeting, Garcia-Huerta came to Principal Lansa and asked what was happening with Rogers. Principal Lansa told Garcia-Huerta that there was a pending investigation which he declined to discuss.
- F. Even as she made inquiry of Principal Lansa regarding the situation concerning Rogers, Garcia-Huerta made no mention to Principal Lansa of the fact that she was involved in an ongoing, personal and sexual relationship with Rogers herself. Principal Lansa was unaware of any relationship between Rogers and Garcia-Huerta.
- G. The school counselors at AHS are assigned a specific student case load. Garcia-Huerta's case load did not include Jane Doe, and Garcia-Huerta had no prior relationship with, or professional responsibility for, Jane Doe in October and November of 2011, when the allegations concerning Rogers and Jane Doe surfaced. Nonetheless, on October 31, 2011, Garcia-Huerta asked Jane Doe to meet with her. Garcia-Huerta interviewed Jane Doe about Jane Doe's allegations regarding Rogers. Garcia-Huerta asked Jane Doe multiple questions and even pulled out a calendar trying to pin down Jane Doe on the specific dates that Jane Doe alleged certain incidents with Rogers occurred.
- H. Even as she made these inquiries of Jane Doe regarding Rogers, Garcia-Huerta made no disclosure to Jane Doe that she was herself engaged in an ongoing, personal and sexual relationship with Rogers, nor did Garcia-Huerta notify Principal Lansa, other school administration, or the School Counselor responsible for Jane Doe, that she was soliciting Jane Doe for information regarding Rogers.

- I. Jane Doe told Garcia-Huerta on October 31, 2011, that there had been physical contact between her and Rogers in his home. In addition, Jane Doe wrote down some of the details about Rogers' behavior in a letter which Jane Doe provided to Garcia-Huerta. Among other things, Jane Doe wrote that "things did happen"; that "things went down"; that "[s]omething happened for like 3 seconds, but I had blocked him"; and that Rogers had tried to kiss Jane Doe. She also wrote, "Unfortunately the cops and Lansa have the right idea...."
- J. Despite knowing there was a pending investigation concerning Rogers, Garcia-Huerta did not provide any of the information nor the letter she received from Jane Doe to any school officials, including Principal Lansa, on October 31.
- K. Despite knowing the police were involved in the situation, even as Jane Doe referred to the police having "the right idea", Garcia-Huerta did not notify the police that she had received pertinent information, including the letter, from Jane Doe. Garcia-Huerta did, however, contact with Rogers following her interview of Jane Doe.
- L. Garcia-Huerta did not report to work on November 1, 2011, the day following her interview of Jane Doe.
- M. On November 1, 2011, police arrived at AHS to interview Jane Doe. On that date, Jane Doe informed the police and Principal Lansa that inappropriate physical contact had in fact occurred between her and Rogers. This was the first time Principal Lansa or the police knew of any allegation of physical contact.
- N. Jane Doe told the police and Principal Lansa that she has already provided Garcia-Huerta with a description of what had happened and that she had written some of the details in a letter and given it to Garcia-Huerta.
- O. The police and Principal Lansa telephoned Garcia-Huerta to inquire about the letter, but they were unable to make contact with Garcia-Huerta and left a message. A search was made of Garcia-Huerta's office as well, but the letter written by Jane Doe could not be found.
- P. Her cell phone records reflect that Garcia-Huerta listened to messages left by Principal Lansa on November 1, 2011, but she did not return his calls. Garcia-Huerta did, however, speak with Rogers on November 1.
- Q. Garcia-Huerta reported to work at AHS on November 2. After being requested to do so, she provided Jane Doe's letter to Principal Lansa and police.
- R. When interviewed by police on November 2, Garcia-Huerta both denied and admitted that she had been trying to protect Rogers. She also acknowledged

that she had had a conflict of interest in the matter and knew that she should have reported the letter immediately. She also disclosed, for the first time, that she was involved in a relationship with Rogers.

- S. Garcia-Huerta was issued a guidance counselor certificate by the State Board of Education.

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

Ms. Garcia-Huerta's above-described conduct violated or is wholly contrary to the following provisions of state law and Governing Board/District policy:

a. Arizona Revised Statutes:

- a) A.R.S. § 13-3620, which mandates that school personnel who in the course of their work learn of crimes against minors report the same to law enforcement; and
- b) A.R.S. § 15-514, which requires that persons certificated by the Arizona Department of Education (ADE) make a written report to the ADE if they reasonably suspect or receive a reasonable allegation that a certificated person has engaged in conduct that is subject to reporting under A.R.S. § 13-3620.

2. Arizona State Board of Education Regulations:

- a) R7-2-1308(A)(1), which requires that any person issued a certificate by the Arizona State Board of Education to "make reasonable efforts to protect pupils from conditions harmful to learning, health, or safety;
- b) R7-2-1308(B)(5), which provides that any person issued a certificate by the Arizona State Board of Education shall not "[u]se professional position or relationships with pupils, parents, or colleagues for improper personal gain or advantage"; and
- c) R7-2-1308(B)(15), which provides that any person issued a certificate by the Arizona State Board of Education shall not "[e]ngage 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.
 - ...
 - Supports the principle of due process and protects the civil and human rights of all individuals
 - 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.
 - ...
 - Keeps in confidence such information as they may secure unless disclosure serves District purposes or is required by law.
 - Does not unreasonably restrain the student from independent action in the pursuit of learning or from access to varying points of view, and does not deliberately suppress or distort subject matter relevant to a student's progress.
 - 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 it is unprofessional conduct for certificated personnel to engage in or do any of the following:

...

- Failure to comply with teacher's duties and/or conduct in violation of any rules, regulations, and policies of the Governing Board.
- Failure to comply with the appropriate statutes as passed by the legislature concerning teacher's duties and conduct.
- ...
- Lack of cooperation.
- Neglect of duty.
- ...
- Dishonesty.
- ...
- Commission and/or final conviction of a felony or a misdemeanor that:
 - Involves moral turpitude; and/or
 - Adversely affects the ability of the teacher to function in the assigned capacity as an educator.
- Discourteous treatment of the public, students, or other employees of the District.
- ...
- Misuse or unauthorized use of School District property.
- ...
- Failure to report suspected child abuse and/or neglect.
- ...
- Any other conduct or failure to act constituting just cause for said discipline or that adversely affects the ability ... to function in the assigned capacity as a teacher.

iii. Governing Board Policy GBEBB, which provides that: “

“All personnel employed by the District are expected to relate to students of the District in a manner that maintains social and moral patterns of behavior consistent with community standards and acceptable professional conduct.

Relationships between staff members and students that include ‘dating,’ ‘courtship,’ or ‘romantic involvement’ are prohibited. These behaviors deviate from ethical or professional standards and shall be deemed unacceptable and contrary to the expectations of District governance.

Staff/student relationships shall reflect mutual respect between staff members and students and shall support the dignity of the entire profession and educational process.”

iv. District Regulation GBEBB-R, which provides that:

“A teacher must always consider that a teacher's professional position contains trust, influence, power, and authority that must not be misused in promoting personal relationships with students. Therefore, the following conditions shall apply:

- A teacher shall not have an intimate physical relationship with a student. Evidence of such a relationship includes, but is not limited to, sexual activity, fondling, kissing, etc.

...

In short, the courtship of a student by a teacher in any manner is inappropriate. The District has the authority to set rules for the general well-being of all students. Therefore, this regulation shall apply to a teacher's relationship with any student who has not yet graduated from high school, regardless of age.

...

Any certificated person or Governing Board member who has reasonable grounds to believe that a certificated employee has engaged in conduct of an unprofessional or immoral nature involving a minor or minors shall report or cause reports to be made to the Department of Education, in writing, within seventy-two hours of the initial report to authorities, required pursuant to A.R.S. 13-3620.”

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

Ms. Susan Zibrat
Vice 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)