



**GOVERNING BOARD AGENDA ITEM  
AMPHITHEATER UNIFIED SCHOOL DISTRICT NO. 10**

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**DATE OF MEETING:**      **September 8, 2020**

**TITLE:**      **Study and Approve Governing Board Policy ACA (Sexual Harassment) and Policy ACAA (Title IX Sexual Harassment)**

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**BACKGROUND:** On May 6, 2020, United States Secretary of Education Betsy DeVos amended the federal Title IX regulations, 34 C.F.R. Part 106, to increase protections for survivors of sexual misconduct. The amended regulations went into effect on August 14, 2020. For compliance, the Arizona School Board Association (ASBA) has provided member districts with the attached proposed revisions for Policy ACA (Sexual Harassment). The recommended additions are set forth in blue and recommended deletions are set forth in ~~red strikethrough~~.

In addition, ASBA also recommends that member districts adopt proposed Policy ACAA (Title IX Sexual Harassment) as a new policy. Policy ACAA establishes necessary procedures for sexual harassment and discrimination investigations and hearings which are now required by the Title IX regulations.

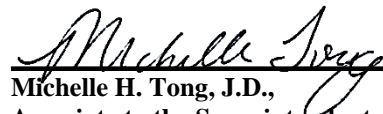
Administration has reviewed these proposed revisions in conjunction with the amended Title IX regulations, and recommends their approval. Given the quick timeline associated with implementation of the amended Title IX regulations, Administration further recommends that the Board consider implementing Board Policy BGF (Suspension/Repeal of Policy) by suspending Policy BGB (Policy Adoption) for the specific agenda item written to address the review and consideration of Policies ACA and ACAA. This provides an opportunity for the Board to approve adjustments to Policies ACA and ACAA in a single meeting with “one [1] read” rather than two (2).

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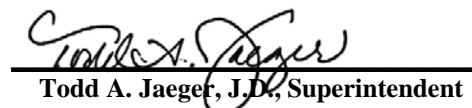
**RECOMMENDATION:** This item is presented as a study/action item to provide the Board with an opportunity to study and approve the policy changes in a single meeting. Administration recommends that the Board approve the proposed changes to Policy ACA and adopt Policy ACAA as presented.

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**INITIATED BY:**

  
Michelle H. Tong, J.D.,  
Associate to the Superintendent and General Counsel

Date: August 31, 2020

  
Todd A. Jaeger, J.D., Superintendent

## ACA © SEXUAL HARASSMENT

All individuals associated with this District, including, but not necessarily limited to, the Governing Board, the administration, the staff, and students, are expected to conduct themselves at all times so as to provide an atmosphere free from sexual harassment.

Sexual harassment is a form of sex discrimination that violates Title VII of the Civil Rights Act of 1964.

The Equal Employment Opportunity Commission defines “sexual harassment” as ~~Sexual harassment includes~~ unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when ~~made by a member of the school staff to a student or to another staff member, or when made by a student to another student where:~~

- A. Submission to such conduct is either explicitly or implicitly made a term or condition of an individual's employment ~~or education~~; or
- B. Submission to or rejection of such conduct is used as a basis for employment ~~or education~~ decisions affecting such individual; or
- C. Such conduct has the purpose or effect of substantially interfering with an individual's ~~educational or~~ work performance, or creating an intimidating, hostile, or offensive work ~~employment or education~~ environment.

Sexual harassment may include, but is not limited to:

- A. Suggestive or obscene letters, notes, invitations, derogatory comments, slurs, jokes, epithets, assault, touching, impeding or blocking movement, leering, gestures, or display of sexually suggestive objects, pictures, or cartoons.
- B. Continuing to express sexual interest after being informed that the interest is unwelcome. (Reciprocal attraction between peers is not considered sexual harassment.)
- C. Implying or withholding support for an appointment, promotion, or change of assignment; suggesting that a poor performance report will be prepared; suggesting that probation will be failed; ~~implying or actually withholding grades earned or deserved; or suggesting that a scholarship recommendation or college application will be denied.~~
- D. Coercive sexual behavior used to control, influence, or affect the career, salary, and/or work environment of another employee; ~~or engaging in coercive sexual behavior to control, influence, or affect the educational opportunities, grades, and/or learning environment of a student.~~
- E. Offering or granting favors or ~~educational or~~ employment benefits, such as ~~grades or~~ promotions, favorable performance evaluations, favorable assignments, favorable duties or shifts, recommendations, reclassifications, et cetera, in exchange for sexual favors.

Anyone who is subject to sexual harassment, or who knows of the occurrence of such conduct, should inform the compliance officer, as provided in ACA-R.

A substantiated charge against a staff member in the District shall subject such staff member to disciplinary action.

~~A substantiated charge against a student in the District shall subject that student to disciplinary action, which may include suspension or expulsion.~~

All matters involving sexual harassment complaints will remain confidential to the extent possible.

Adopted: date of Manual adoption

LEGAL REF.:

A.R.S.

41-1461 et seq.

20 U.S.C. 1681, Education Amendments of 1972, Title IX

20 U.S.C. 1703, Equal Employment Opportunity Act of 1972

42 U.S.C. 2000, Civil Rights Act of 1964 as amended, Title VII

CROSS REF.:

AC - Nondiscrimination/Equal Opportunity

GBA - Equal Employment Opportunity

GCQF - Discipline, Suspension, and Dismissal of Professional Staff Members

GDQD - Discipline, Suspension, and Dismissal of Support Staff Members

~~IHBA—Special Instructional Programs and Accommodations for Disabled Students~~

~~JB—Equal Educational Opportunities~~

~~JH—Student Concerns, Complaints and Grievances~~

~~JK—Student Discipline~~

~~JKD—Student Suspension~~

KED - Public Concerns/Complaints about Facilities or Services

KFA - Public Conduct on School Property

ACAA ©

TITLE IX SEXUAL HARASSMENT

Title IX of the Federal Education Amendments Act protects people from discrimination based on sex in education programs or activities that receive Federal financial assistance. The District does not discriminate on the basis of sex and is required by Title IX not to discriminate in such a manner. The District adheres to all conditions established by Title IX by recognizing the right of every student who attends school in the District and every employee who works in the District to do so without the fear of sexual harassment.

The District accepts and shall employ the definition of sexual harassment as established by the Title IX regulations. Sexual harassment means conduct on the basis of sex that satisfies one or more of the following:

A. An employee of the District conditioning the provision of an aid, benefit, or service of the District on an individual's participation in unwelcome sexual conduct;

B. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the District's education program or activity; or

C. "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(30).

The District also accepts and shall employ the definition of a complainant as an individual who is alleged to be the victim of conduct that could constitute sexual harassment, and a respondent as an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

The District shall designate and authorize an employee as the "Title IX Coordinator" to comply with its responsibilities pertaining to sexual harassment under Title IX. Inquiries about the application of Title IX may be referred to the District's Title IX Coordinator.

Any person may report sex discrimination, including sexual harassment, regardless of whether the person reporting is the person alleged to be the victim of the reported conduct or not. A report may be made in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. Such a report may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office address, listed for the Title IX Coordinator. The District shall notify students, parents or legal guardians of students, employees, applicants for employment, and all unions or professional organizations holding collective bargaining or professional agreements with the District, of the name or title, office address, electronic mail address, and telephone number of the Title IX Coordinator.

The District will respond promptly when any school employee has notice of sexual harassment. Upon receipt of notice of sexual harassment, the District shall notify students, parents or legal guardians of students, employees, applicants for employment, and all unions or professional organizations holding collective bargaining or professional agreements with the District, of the

District's grievance procedures and grievance process, including how to report or file a complaint of sex discrimination, how to report or file a formal complaint of sexual harassment, and how the District shall respond. The District is committed to investigating each formal complaint submitted and to taking appropriate action on all confirmed violations of policy. The District shall follow grievance procedures that provide for the prompt and equitable resolution of complaints from students and employees alleging sexual harassment.

The District shall, to the extent reasonably feasible, keep confidential the identity of any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness, except as is necessary to carry out the grievance process and as may otherwise be permitted by law.

Title IX sexual harassment complaints may include violations covered by Arizona's mandatory reporting statute, A.R.S. §13-3620. Any abuses classified by statute as "reportable offenses" must be reported as such to the authorities because not reporting a reportable offense is classified as a Class 6 Felony.

#### Retaliation Prohibited

Neither the District nor any person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX, or because the individual has in good faith made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing. Intimidation, threats, coercion, or discrimination, including charges against an individual for violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX, constitutes retaliation.

Adopted:

LEGAL REF.:

A.R.S.

§13-3620

20 U.S.C. 1092

20 U.S.C. 1681, Education Amendments of 1972, Title IX

34 U.S.C. 12291

CROSS REF.:

AC – Nondiscrimination / Equal Opportunity

JB – Equal Educational Opportunities