



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

DATE OF MEETING: August 7, 2012

TITLE: Study of Proposed Revisions to Governing Board Policies KD and KHC Regarding Distribution of Third Party Materials in Schools.

BACKGROUND: Issues concerning the distribution of materials to students by third parties continue to arise with increasing frequency. This is perhaps a reflection of changes in advertising strategies made by commercial entities under current economic restraints. From time to time, the District receives complaints from third parties regarding administrative determinations on the distribution of third party materials – both as to materials permitted for and materials excluded from distribution at school sites.

A review of legal precedents relating to the distribution of third party materials, including a U.S. Supreme Court case, suggests that some revision of existing policies would be beneficial for the District's interests. While there are no statutes mandating the proposed revisions, there is substantial case law suggesting the District would have greater legal exposure without adoption of these changes.

The thrust of each of the presented policy modifications is to focus the District's selection of special-interest materials, release of public information and communications, and distribution/posting of promotional materials on the educational program, including instruction, curriculum and practices which promote the mission and objectives of the schools.

Policy KHC specifically delineates a "limited open forum" (a legal term of art) for the distribution/posting of promotional materials which fall within the parameters determined by the governing board. Importantly, the revision also contains a proscription of personnel basing distribution decisions on the viewpoint expressed in the promotional materials – which can be a violation of constitutional principles. Instead, the policy directs the distribution decision be viewpoint neutral at each level of review.

As the U.S. Supreme Court has ruled, for example, school personnel should not deny religious groups from distributing/posting their material if the material is consistent with material allowed to be distributed/posted by other outside non-religious groups of a similar nature.

To minimize offense taken by some parents and students regarding the content of third party materials, the policies were revised several years ago to only passive distribution -- by posting materials on a bulletin board or on a table for pick-up by those parents or students who want them. No change is made in this respect.

The most significant proposed revision in the drafts is the addition of a new section in Policy KHC that would provide for an alternative dispute resolution process that would provide an administrative relief venue prior to any dispute being pursued in the courts. This would operate to minimize unnecessary legal process and encourage more prompt resolution of any complaints that might arise.

RECOMMENDATION: This item is presented for the Board's approval at this time, which the administration recommends.

INITIATED BY:



Todd A. Jaeger, Associate to the Superintendent

Date: August 1, 2012



Patrick Nelson, Superintendent