

May 8, 2023

Sent via email: [klking@mpsaz.org](mailto:klking@mpsaz.org)

Kacey King  
General Counsel  
Mesa Public Schools

**Re: MPS Guidelines for Support of Transgender and Gender Nonconforming Students**

Dear Kacey:

You have asked our law firm to review your District's "Guidelines for Support of Transgender and Gender Nonconforming Students," ("Guidelines") to ensure Mesa Public School ("MPS") Guidelines conform to current federal and state laws, regulations, relevant case law (i.e., case law governing the State of Arizona) and Executive Orders. In preparing this letter, we reviewed the following:

- MPS Guidelines for Support of Transgender and Gender Nonconforming Students
- Email exchanges between Board Member Walden and you (March 28, February 9, February 10).
- Relevant sections of Title 15.
- January 20, 2021 Executive Order 13988 on Preventing and Combating Discrimination on the Basis of Gender Identify or Sexual Orientation.
- March 8, 2021 Executive Order on Guaranteeing an Educational Environment Free from Discrimination on the Basis of Sex, Including Sexual Orientation or Gender Identity.
- Relevant federal laws (e.g., Title IX, Title VII) and related case law.

In brief, we are aware that issues regarding students' use of restrooms and locker rooms, and use of students' preferred names and pronouns, are not uniformly settled among the courts across the nation. Although we do not know what the future holds in terms of changes in federal agency administration or Congressional action, the proposed federal regulations we expect to go into effect this summer will very likely strengthen protection for students who face discrimination based on sexual orientation or gender identity.

It is our legal opinion that the current version of the MPS Guidelines do not violate state or

federal laws and follows MPS policy. Additionally, we see no contradiction between what the law requires under the Arizona parents' bill of rights (A.R.S. 1-602) and what the Guidelines recommend to staff as a tool to assist in addressing the students' needs.

The Guidelines acknowledge MPS cannot anticipate every scenario, and recommend the needs of each student be addressed on a case by case basis. This language will support MPS to avoid any potential conflict. In particularly complex scenarios, considering pending changes to the law, MPS should consult with counsel when an action may carry legal implications.

In conclusion, thank you for the opportunity to support MPS, and we look forward to continuing to work with you in the future to ensure the best education for MPS students.

Sincerely,



Lawton Jackson

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