



August 31, 2022

***BY EMAIL AND USPS MAIL***

Michael S. Catlett  
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Chief Counsel to Special Litigation  
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Re: Request to Immediately Investigate and Stop Violation of A.R.S. § 15-511 -- School Districts Illegally Using District Resources to Influence Outcome of Election

Dear Mr. Catlett:

Arizona Revised Statute Section 15-511 prohibits school districts from spending or using district school resources to influence the outcomes of elections, including the support or opposition of ballot measures. But school districts are doing precisely that, and the Attorney General is statutorily empowered to stop it.

In blatant violation of A.R.S. § 15-511, school districts are using district resources to send representatives to the Arizona School Board Association (“ASBA”) Law Conference on September 7-9, 2022, at the J.W. Marriott Camelback Inn in Paradise Valley. The ASBA is an Arizona nonprofit that engages in political advocacy. *See* ASBA 2022 Political Agenda enclosed. But the ASBA has brought its political advocacy to a fine point in its upcoming Law Conference. It has enlisted – and integrated into its conference programming – a 501(c)(4) organization known as the “Friends of the ASBA.” *See* ASBA Law Conference Program enclosed.

The Friends of the ASBA has an overtly ideological mission: promote opposition to A.R.S. § 15-2401 *et seq.* (Arizona’s Empowerment Scholarship Account (“ESA”) statutes). Law Conference attendees are encouraged to join with the Friends of the ASBA to oppose the ESA expansion and thereby deprive Arizona families of their freedom of choice in education. *See* Instagram post of the Friends of the ASBA.

Based on our knowledge of this event, staff and other representatives from numerous school districts will attend the Law Conference, including Tolleson Elementary School District, Avondale Elementary School District, Deer Valley Unified School District. *See* enclosed Twitter posts from last year’s conference from representatives from those school districts. In addition, we expect many other

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school districts to attend, including unified school districts within Phoenix, Chandler, Mesa, Page, Gilbert, and Queen Creek.

Arizonans would rightly be appalled to learn that school districts will be using taxpayer resources to have district employees participate in an event clearly geared toward a political objective: undoing Arizona's innovative, new universal school-choice program. A.R.S. § 15-511 gives the Attorney General the power to end this, but only if your office acts promptly.

Based on the foregoing, we respectfully request that your office investigate the use of school district resources in connection with the participation of district employees in the upcoming ASBA/Friends of ASBA Law Conference on September 7-9, 2002. We further ask that your office take all appropriate legal action to enforce Arizona's law prohibiting school districts from using public resources to support a ballot measure seeking to invalidate Arizona's universal ESA program.

Very truly yours,

A handwritten signature in black ink that reads "Scott Day Freeman". The signature is written in a cursive, flowing style.

Scott Day Freeman

Senior Attorney

Goldwater Institute Scharf-Norton Center for

Constitutional Litigation

# 2022 Political Agenda

Adopted by the ASBA Delegate Assembly | September 11, 2021

The Arizona School Boards Association represents and advocates for the diverse interests of the state's school district governing boards and the approximately 1 million Arizona children whose education is entrusted to their care. ASBA's legislative, regulatory and legal advocacy is based on the association's Political Agenda. A member-developed document, the Political Agenda is discussed, debated and approved by ASBA membership at the annual Delegate Assembly. Every district member board has the opportunity to influence the yearly agenda.

## 2022 Priority Issues

Adequately and Equitably Fund District Schools to at Least the National Median per Pupil Funding

Improve Outcomes  
for All Students

Preserve and Strengthen  
Local Control

Require Public Accountability for  
Taxpayer Dollars Spent on Education

### Adequately and Equitably Fund District Schools to at Least the National Median Per Pupil Funding

- Maximize state funding for nationally and locally competitive salaries to attract, recruit, and retain talented teachers and staff, including support for the AZ teacher's academy and efforts to increase the diversity of the teaching workforce, and for difficult to fill positions.
- Revise the School Finance formula to:
  - Provide a stable, dedicated revenue source less reliant on the general fund or annual legislative appropriation.
  - Provide dedicated school capital funding consistent with the constitutional requirement of a general and uniform public school system.
  - Ensure the formula addresses the unique financial needs of schools serving students in poverty and in rural & remote schools.
  - Fund distance learning at 100%
- Fully fund full-day kindergarten and include kindergarten students in the override calculations.
- Advocate to preserve and protect the voters' original intent of Prop 301. Protect voters' intent in funding K-12 education and oppose legislation that attempts to supplant or divert additional voter-approved funding streams, such as Prop. 301 and Prop. 208.
- Index district additional assistance (DAA) funding for inflation.
- Provide funding for new space before existing schools exceed their maximum capacity and become overcrowded, and provide dedicated and flexible ongoing maintenance funding, including replacement of buildings that have exceeded their useful life. Advocate for capacity standards that reflect the design of instructional space.
- Eliminate unfunded mandates and administrative burdens.
- Return desegregation funding to a primary tax levy.
- Conduct an exceptional student services cost study to ensure students, including in rural or remote areas, receive adequate funding for the actual cost of their services, including early intervention.
- Adequately fund the cost of student transportation including adequate maintenance of school bus routes for rural schools.
- Provide funding for preschool programs in the K-12 funding formula.
- Reform current year funding to a system that provides districts with appropriate stable annual budgeting ability and technical reliability.
- Prorate funding over the entire school year among all public schools that a student has attended during the year.
- Provide funding to individual districts to implement locally directed school safety programs as well as student mental health and wellbeing initiatives.
- Equitably invest in technology and reliable internet access for all students.
- Provide funding for districts to implement research-based programs to address social emotional learning through mental health and well-being. Support research-based cultural proficiency and responsiveness training for school staff.
- Give all districts the authority and funding to provide affordable housing options to faculty and staff.

OUR MISSION IS TO CULTIVATE EXCELLENCE IN LOCALLY-GOVERNED SCHOOL DISTRICTS.

## Preserve and Strengthen Local Control

Adopted by the ASBA Delegate Assembly | September 11, 2021

- Ensure local control and flexibility in managing funds and programs when possible, given the Arizona constitutional requirements of a general and uniform public school system.
- Change “override/budget increase” language to better reflect what voters are being asked to support.
- Allow school districts greater flexibility in the divestiture or use of taxpayer-funded assets.
- Oppose legislative intrusion on school site budgeting decisions.
- Maintain exclusive local authority over any measure that would propose to consolidate and/or unify any number of school districts into a larger district.
- Support local board authority for student suspensions and to adopt open enrollment policies based on capacity.
- Support policy that eliminates the use of corporal punishment and “Zero Tolerance” disciplinary policies in Arizona schools.
- Amend current statute to allow school board members to use the E-Equal system in addition to in-person signatures to appear on the ballot.
- Oppose any legislation that intends to lessen or curtail the legal authority of local school boards including their authority to approve curriculum.

## Improve Outcomes For All Students

- Increase the compulsory attendance age from 16 to 18 years or the attainment of a high school diploma or GED before the age of 18.
- Continue reforming English Language Learner models of instruction to increase integration of English Learners and give schools flexibility and resources to administer them.
- Fully restore 9th grade CTE/CTED eligibility and funding to allow students to explore career fields and/or certification completion.
- Allow CTEDs to serve students through age 21 regardless of graduation status.
- Support policy that recognizes, respects, and promotes teaching as a profession.
- Defend against efforts to chill the free speech rights of school employees.
- State standardized testing shall not be used for any purpose other than a year over year measurement of student growth in the tested subject. Rethink and redefine the role and purpose of standardized testing and develop meaningful assessments and other measurable outcomes.
- Support policy that protects school district employees and students from discrimination based on sexual orientation and gender identity.
- Support policy that promotes social-emotional wellness as a critical component of improving school climate, safety, and learning for all students and staff.

## Require Public Accountability for Taxpayer Dollars Spent on Education

- Establish financial and academic transparency for all institutions and individuals that accept public funds.
- Repeal any program that gives public funds for private schools, vouchers (Empowerment Scholarship Accounts) and private school subsidies (Student Tuition Organizations) and prevent any future expansion.
- Require comparative classroom spending audits for school districts and all other institutions that accept public funds and define “classroom spending” as both instructional spending and student support spending.
- Enforce financial requirements and seek recovery of improperly received and/or expended public funds by charter and private schools and organizations.
- Oppose any measure that would result in fewer qualified voters from being easily able to vote or register to vote.



**ASBA**  
**46th Annual**  
**Law Conference**  
**September 7-9, 2022**

**JW Marriott Camelback Inn, Scottsdale**



Arizona School Boards Association



**December 14**  
**New Board Member Orientation**  
(Part 1)

**December 15 - 16**  
**ASBA-ASA Annual Conference**  
JW Marriott Desert Ridge  
Registration opens October 17 and closes December 5

# ASBA YEARLONG SPONSORS





# Pre-Conferences

## Pre-Conference One - Supporting Students with Disabilities

### Salons F-G



Wednesday, September 7, 2022

<p><b>1:00 - 2:00 p.m.</b></p>	<p><b>“What Does Inclusion Look Like for Students with Disabilities?”</b></p> <p><i>Learn from keynote speaker Rebecca Cokley, an American disability rights activist and public speaker who is currently the first U.S. Disability Rights Program Officer for the Ford Foundation. Prior to joining Ford, Cokley was the founding director of the Disability Justice Initiative at the Center for American Progress. Her activism and work within the disability community are largely shaped by her experience as a person with dwarfism.</i></p>	<p><b>Rebecca Cokley</b>, Disability Rights Advocate, Ford Foundation</p> 
<p><b>2:00 - 2:45 p.m.</b></p>	<p><b>The Ins and Outs of Discipline and Behavior Interventions for Students with Disabilities</b></p> <p><i>Explore the rights of students with disabilities when it comes to discipline and learn how schools can support them - and other students - while following the law.</i></p>	<p><b>David Garner</b>, Osborn Maledon</p>
<p><b>2:45 - 3:00 p.m.</b></p>	<p><b>Break</b></p> <p><i>Those attending the main Law Conference may pick up their packets at this time.</i></p>	<p>AZ Ballroom Foyer</p>
<p><b>3:00 - 4:00 p.m.</b></p>	<p><b>Successful Practices for Building inclusive Environments</b></p> <p><i>Learn from an attorney and inclusion consultant who have worked together to assist districts that have faced challenges in creating more inclusive environments.</i></p>	<p><b>Heather Pierson</b>, Udall Shumway, and <b>Angela Root</b>, IDEA Procedural Specialist, Chandler USD</p>
<p><b>4:00 - 5:30 p.m.</b></p>	<p><b>Optional: Friends of ASBA Social Reception</b></p> <p><i>This is an optional event sponsored by the Friends of ASBA. All pre-conference and main conference attendees are invited to attend.</i></p>	<p>Paradise Ballroom Foyer</p>



### EVALUATION

#### Pre-Conference Supporting Students:

<https://www.surveymonkey.com/r/PreConSupportingStudents>

Scan the QR code or go to the link above to access the online evaluation.





# 46th Annual ASBA Law Conference

Thursday, September 8, 2022

8:00 - 9:00 a.m.	<b>Registration and Continental Breakfast (provided)</b>	AZ Ballroom Foyer
8:10 - 8:40 a.m.	<b>Breakfast with Friends of ASBA (Optional)</b> <i>Get your breakfast and come hear from the Friends of ASBA and strategic partners about what is going to be on the 2022 general election ballot.</i>	<b>Chris Kotterman, ASBA</b> Director of Governmental Relations
9:00 - 9:10 a.m.	<b>Welcome and Conference Overview</b>	<b>Dr. Sheila Harrison-Williams,</b> ASBA Executive Director, and <b>Monica Trejo,</b> President, ASBA Board of Directors
9:10 - 9:25 a.m.	<b>Capital Litigation Update</b>	<b>Danny Adelman,</b> Executive Director, Arizona Center for Law in the Public Interest
9:25 - 10:25 a.m.	<b>"A Promise to Keep: Supporting Students in Need"</b>  <i>Judge Glenda Hatchett was a presiding judge and department head of one of the largest juvenile court systems in the country. Today she is most widely known for her television court series "Judge Hatchett" (2000-2008) and most currently "The Verdict." Nationally recognized as an authority on juvenile and social justice issues and an outspoken advocate for children everywhere, Judge Hatchett speaks passionately on how we can empower this and future generations.</i>	<b>Judge Glenda Hatchett</b>  
10:25 - 10:35 a.m.	<b>Break</b> <i>Judge Hatchett will be available to meet attendees during the break.</i>	
10:35 - 11:45 a.m.	<b>"The Bad Kids" Documentary: Screening, Part I</b>  <i>Is there such a thing as "bad kids"? We'll tune into this Sundance Award-winning documentary, set at a remote Mohave Desert high school, to explore that question and the impact that love, empathy and life skills have in giving "at-risk" students command of their own futures. This coming-of-age story watches education combat the crippling effects of poverty on the lives of these so-called "bad kids." Part one of this film will be watched in general session. Part two will be shown Friday afternoon as a breakout session for those who choose to attend.</i>	
11:45 a.m. - 1:00 p.m.	<b>Lunch</b>	Paradise Ballroom

# Thursday Breakout Session Descriptions (1:00-4:00 p.m.)

**(choose from four)**

## Breakout Sessions #1 (1:00 - 1:50 p.m.)

### **Everything You Ever Wanted to Know About Criminal Law and Schools but Were Afraid to Ask**

– **Brandon Kavanagh, Mangum, Wall, Stoops and Warden; Jeffrey Dollins, Mangum, Wall, Stoops and Warden; Nick Buzan, ASBA Director of Legal and Policy Services (Rooms A - E)**

Learn how schools and school employees are impacted by criminal investigations involving students, teachers or parents.

### **Free Speech and Advocacy: Say It Ain't So?!**

– **Ernest Calderon, Calderon Law Offices; Devin Del Palacio, ASBA Advocacy and Strategic Initiatives Consultant (Rooms F - G)**

What issues do board members and superintendents need to be aware of as they advocate for their students and staff? Hear from an attorney and advocacy expert about what you can't do and what you can.

### **Open Meeting and Public Records Law: A One-Stop Shop**

– **Lynne Adams, Osborn Maledon; Anthony Contente-Cuomo, Sims Mackin (Rooms H - I)**

This session combines OML and public records laws into one presentation where you will learn the latest updates on these issues related to Arizona's Sunshine Law.

### **Title IX - An Introduction**

– **Aaron Brown and Kelsey Karam, Cantelme and Brown (Rooms J - N)**

This presentation is an introduction to Title IX, a set of rules including steps districts must follow when they receive notice of "sexual harassment," mandatory training requirements and additional helpful topics. (Note: Due to time limits, this is a general overview and will not serve as the mandatory training that each Title IX Team Member must make.)

## Breakout Sessions #2 (2:00 - 2:50 p.m.)

### **Hey, Coach! Put Me In!**

– **Joseph Williams and C. Benson Hufford, Hufford, Horstman, Mongini, Parnell & Tucker (Rooms A - E)**

We'll focus on staying inbounds with stipends and addenda, and also cover additional assignments, extra duty stipends, non-exempt employees and overtime rules.

### **Threat Assessments: When Students Make a Threat of School Violence**

– **Rodney States, Udall Shumway; Dennis Albaugh, Lead Psychologist, Higley USD (Rooms F - G)**

What is a threat assessment and what is a district's responsibility in administering them? Learn how to establish a threat assessment program and how to conduct a threat assessment investigation. This presentation will touch on the entire range of threats that an assessment will cover, including student discipline techniques and law enforcement relationships.

### **Revisiting Religion in Schools 2022: The Supreme Court Weighs In**

– **David Garner, Osborn Maledon (Rooms H - I)**

Earlier this summer, the Supreme Court ruled that a high school football coach's post-game prayers on the football field were protected by the First Amendment. The Court's decision in *Kennedy v. Bremerton* not only provides updated guidance on the school's role in policing neutrality on church-state issues, but also formally abandons a legal precedent that has underpinned the analysis of establishment clause analysis for over 50 years. In this presentation, you'll learn about the implications of this new decision for local school districts.

### **When Board Relations Go Sideways: What You Can and Can't Do**

– **John Richardson, Deconcini McDonald Yetwin and Lacy; Julie Bacon, ASBA Leadership Development Manager (Rooms J - N)**

The Supreme Court recently ruled that the censure of board members does not violate the First Amendment rights of the censured board member. What does Arizona law say about censure of board members? Is censure permissible? Is other discipline of a board member by the board permissible? What options are available to a board to manage a board member who acts in a disruptive or otherwise inappropriate manner?

**Break (2:50 - 3:10 p.m.) - AZ Ballroom Foyer**

Friends of ASBA is at JW Marriott Scottsdale Camelback Inn Resort & Spa. 19h · Scottsdale · 🌐

Join Friends of ASBA on September 7 for a reception Arizona School Boards Association's law conference! Don't miss an opportunity to network with #azleg members & discuss priorities with superintendents & other district reps from 100+ districts across AZ! ✚ join our efforts to stop voucher expansion and use the event as an opportunity to sign circulating petitions!

Details 👉 <https://bit.ly/3dOd6A5!>



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**Curt Finch, PhD**  
@DrFinchDVUSD



Learning more about liabilities and intentional torts  
[@azsba\\_GR](#) at the Arizona School Board School Law  
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10:34 AM · Sep 8, 2021 · Twitter for iPhone

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**Mr. Vernier** 🧑  
@MrVernier



Good morning from day one of the [@AzSBA](#) Law Conference!



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**Lupita Hightower**  
@LupitaHightower



Great minds think alike! Learning together @azsba\_GR  
@Arizona\_ASA Law Conference! #noexceptions!



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