



AMPHITHEATER PUBLIC SCHOOL DISTRICT NATIVE AMERICAN EDUCATION PROGRAM



CONSTITUTION AND BY-LAWS OF AMPHITHEATER JOM INDIAN EDUCATION COMMITTEE

The following are by-laws that have been established and approved by the Amphitheater JOM Indian Education Committee by majority vote of members present on August 28, 2015. [Amended by majority vote of members present on August 2, 2018 in accordance with Article IX.](#)

ARTICLE I – Reference

In accordance with the Indian Self Determination and Education Assistance Act - Johnson O’Malley Act of 1934, 25 CFR Part 273 of the federal regulations, a Parent Committee selected in accordance with federal regulations, will adopt and abide by reasonable by-laws for the conduct of the project for which assistance is sought.

ARTICLE II – Name

The name of this committee shall be the Amphitheater JOM Indian Education Committee.

ARTICLE III – Purpose

The establishment and the work of the parent committee are to comply with the rules and regulations as found in the Federal Register, Vol. 40, No 213, Tuesday, Nov. 4, 1975. (Refer to 25 CFR Indians Sec. 273.16 Powers and Duties of Indian Education Committees and Sec. 273.17 Programs approved by an Indian Education Committee to complete the purpose.)

- Section 1: To inform and advise the District School Board and Superintendent and/or their representatives on matters pertaining to the Native American Education Program as the Committee deems appropriate and/or necessary.
- Section 2: To promote the best education interest of Native American students in the Amphitheater Public School District.
- Section 3: To assist in educating teachers and other school staff on the educational and culturally related needs of the Native American students.
- Section 4: To advise and/or consult with the Native American Education Program regarding the needs of the Program and/or Native American students in the District schools.
- Section 5: To approve the annual JOM Indian Education Grant.

ARTICLE IV – Objective

- Section 1: To provide an avenue of communication, enhance mutual understanding and foster a cooperative relationship between parents and the administration, teaching faculty, staff and other personnel within Amphitheater Public School District.
- Section 2: To promote the welfare of Native American children and youth in home, school, community, and tribe/nation.

- Section 3: To raise the standards of school achievement of Native American children in the Amphitheater Public School District.
- Section 4: To bring into closer relationship the home and the school so that parents and teachers may cooperate intelligently in the education of Native American children and youth.
- Section 5: To conduct fundraising events to benefit Native American students within Amphitheater Public School District and supplement funds.
- Section 6: To encourage Native American students and their families within the Amphitheater Public School District to be engaged with the IEC, NAEP, and social events.

ARTICLE V – Membership

- Section 1: Establishment of the Indian Education Committee
- A. According to Sub-Part A, Sec. 273.15 of the Nov. 4, 1975 regulations and Indian Education Committee is to be elected from the parents/legal guardians (including persons acting ‘*in loco parentis*’)
 - B. The Indian Education Committee shall be composed of three members. Comprised of the Chairperson, Vice-Chair, and Secretary/Treasurer.
 - C. All IEC members must have formal authorization by action (motion recorded in minutes) to represent or speak on behalf of the IEC.
- Section 2: Election of the three members of the Indian Education Committee
- A. New members are elected in an open meeting for a term of two years by a majority vote of parents/legal guardians of eligible Native American students in attendance in a public school within the Amphitheater Public School District.
 - B. One member is elected in odd calendar years and two members elected in even calendar years.
 - C. Membership in the Indian Education Committee cannot be transferred.
 - D. Members may run for a second, two year term if reelected by the community.
 - E. The IEC elections are to elect the IEC members and not an election of officers. Officers are to be elected by the IEC members themselves at their first re-organizational meeting.
- Section 3: Annual Elections/Community Voting Rights
- A. The Annual Election meeting shall be held on the last Thursday of August, or at date as near to that day as determined by the IEC.
 - B. Nominations for new IEC members shall be taken from the floor by an eligible voter at the duly called Annual meeting.
 - C. Individual votes shall be cast by secret ballot and tallied visibly so that all in attendance will know the results.
 - D. The IEC Chairperson or designee shall act as the election judge for the Annual meeting. The election judge should be a non-voting, non partisan person and of no relation to those running for the IEC.
 - E. The IEC will also have the option of having the election judge preside over the election of officers at the first official meeting of the new Native American Education Parent Committee.
- Section 4: Election Voting Procedures
- A. Election procedures: The Native American Education Program Parent Committee is made up of three parents or legal guardians of eligible JOM students.
 - B. Eligibility to run for the IEC: According the Federal Regulations - Sub part a, Section 273.15 “the Indian Education Committee is to be elected for the parents (including persons acting “*in loco parentis*” - legal guardian) except school officials of the eligible Native American student on the schools affected by the subcontract under this part.” To avoid conflict of interest or give the

appearance of a conflict of interest, school officials or their spouses, persons directly involved in oversight of the JOM Program should not be eligible to serve as committee members.

- C. Nominations at the Annual Meeting:
 - 1. Nominations for new members shall be taken from the floor at the Annual meeting.
 - a. The Nominator must be an eligible JOM parent or guardian.
 - b. Votes shall be cast by secret ballot and tallied by the election judge
 - c. Each person nominated will have an opportunity to give a three-minute speech explaining why they want to serve on the committee.
 - d. The top (1 or 2) vote recipient, depending on it being an odd or even year, will be seated as the new IEC members.
 - e. Responsibilities of an IEC member:
 - 1. Attend monthly meetings,
 - 2. Assist other IEC members in planning and implementing program and special events.

Section 5: Voting Rights for IEC meetings

- A. Each member of the IEC shall have one vote in any matter submitted to the parent committee for a general vote.
- B. Proxy voting and absentee balloting shall not be permitted.
- C. An IEC member may abstain only from a conflict of interest that is determined valid by the chairperson. If there is no conflict, the IEC member must cast a vote.
- D. The Chairperson may only vote in case of a tie among the other members.

Section 6: Termination of Membership

- A. Any IEC member may resign by giving a written resignation to the parent committee.
- B. An IEC member shall be automatically removed from membership on the Indian Education Committee for the following reasons:
 - 1. The member does not attend any regular or special meetings of the committee for two consecutive months, excluding absences caused by a death of family member.
 - 2. The child of the member is no longer enrolled in the Amphitheater Public School District.
 - 3. For inappropriate action or behavior that brings discredit to the Native American Education Program. These actions may include, but not limited to:
 - a. A felony conviction,
 - b. Unethical political activities.
 - 4. A recall petition towards an IEC member signed by two-thirds of active JOM parents shall call for action of removal if just cause has been cited and that the IEC member has been given warning of such action.

Section 7: Vacancies

- A. Names of the nominated candidates, who were not elected to the IEC at the Annual Meeting, will be listed as alternates and will be utilized as alternates for any member of the IEC who resigns, is terminated or otherwise ineligible to serve on the IEC.
- B. If the alternates are not able to serve, the IEC shall select by majority vote, an eligible JOM parent to fulfill the vacant IEC term.
- C. By affirmative vote of members of the committee, a vacancy can be filled.
- D. The new member will only serve the remaining time of the vacancy.
- E. If the new member replaces an IEC officer, that officer position does not transfer to the new member.
- F. The newly elected IEC member will only serve only for the unexpired portion of the term of the vacancy left by the IEC member.
- G. An election among the IEC members shall be held to replace the officer whose position has become vacant.

Section 8: Powers and Duties

- A. Recommend curriculum, including texts, materials and teaching methods to be used in the contract programs
- B. Approve budget preparation and execution
- C. Recommend criteria for employment in the program
- D. Nominate up to three qualified prospective staff members from which School District would select for interview and review for hire.
- E. Evaluate job positions and program results and make recommendations to the School District Administration.
- F. Secure and have available a copy of the sub-contract application on file.
- G. Recommend cancellation or suspension of approved program if the Amphitheater Public School District fails to permit committee to exercise powers and duties.
- H. The organizational papers and by-laws of the Indian Education Committee may include additional powers and duties which would permit the Committee:
 1. Participate in negotiations concerning all contracts under this part.
 2. Make an annual assessment of the learning needs of Native American children in the community affected.
 3. Have access to all reports, evaluations, surveys and other program and budget related documents determined necessary by the Committee to carry out its responsibilities, subject only to provisions of 273.49.
 4. Request periodic reports and evaluations regarding the Native American Education program. These may include Staff reports.
 5. Hear grievances related to programs in the education plan.
 6. Meet with the NAEP JOM staff serving the Native American children and with local education agencies.
 7. Hold committee meetings on a regular basis which are open to the public.
 8. Review and approve the Annual Program Report.
 9. Have such additional powers as are consistent with these regulations.

ARTICLE VI – Officers

The officers of the Indian Education Committee shall be a Chairperson, Vice-Chair and Secretary/Treasurer. Other officers may be appointed as the committee elects.

Section 1: Election, Terms of Office and Officers selection

- The Indian Education Committee shall be elected by a majority vote at the annual committee election, the committee members shall serve for two years.
- A. Nomination from floor by an eligible JOM parent / guardian
 - B. Individual ballots
 - C. Ballots counted individually in a visible manner.
 - D. Newly elected IEC members shall take their positions as IEC members, at the first official meeting of the new Indian Education Committee
 - E. The current IEC members shall maintain their positions as the IEC until the completion of the Annual Election Meeting. The presiding Chairperson (or a remaining officer from the current IEC, if the Chairperson is not re-elected) shall call the first official meeting of the ‘new’ IEC members.
 - F. Officers (Chairperson, Vice-Chair and Secretary/Treasurer) shall be elected by the IEC at the first official meeting of the new Indian Education Committee. This will be considered a re-organizational meeting.
 - G. Each officer of the IEC shall hold their office from annual meeting to annual meeting.

Section 2: Officer Vacancies

A vacancy of an officer of the Indian Education Committee during the year may be filled by a majority vote of the IEC members present at a regular/special meeting. The newly elected officer shall serve only for the unexpired portion of the year term.

The officer position may also be left vacant until the following annual meeting if so desired. This would be beneficial if close to the annual meeting time.

Section 3: Removal

Any officer may be removed by a two-thirds vote of all members present whenever it is in the best interest of the committee according to ARTICLE V, Section 6, (B).

Section 4: Duties of the Officers

A. Chairperson

The Chairperson shall perform all duties incidental to the office of the chairperson and such other duties as may be prescribed by the Indian Education Committee from time to time. The chairperson shall act on behalf of the IEC, by recorded by motion, of the IEC.

Specific duties are:

1. To preside over all general meetings
2. Prepare the meeting agendas in conjunction with the NAEP Coordinator.
3. Sign on behalf of the IEC, all letters, reports, checks, financial documents, and other committee documents as required with authority given by the IEC to do so.

B. Vice-Chair

The Vice-Chair shall:

1. Assume the role of the chairperson in his/her absence.
2. Ensure that membership on the Indian Education Committee is consistent with the federal regulations.
3. Arrange for speakers and special programs.
4. Shall perform such other duties as may be prescribed by the committee from time to time.

C. Secretary/Treasurer

The Secretary/Treasurer shall:

1. Distribute to the IEC prior to the meetings the following:
 - a. The agenda prepared by the Chairperson
 - b. The minutes of the previous committee meeting
 - c. Staff reports
 - d. Financial reports.
2. Keep the minutes of the regular, special and emergency meetings.
3. Shall provide minutes to the committee and to such other persons the committee may indicate.
4. He/She shall see that all notices are given in accordance with the provisions of these by-laws.
5. Keep a list of the address and telephone numbers of each committee member.
6. Be custodian of the committee's records.
7. Maintain and present a financial report of the committee at every meeting.
8. Secure two signatures on all checks.
9. Shall perform other such duties as prescribed by the Indian Education Committee from time to time.

D. All IEC members must have formal authorization by action (motion recorded in minutes) to represent or speak on behalf of the IEC.

ARTICLE VII – Meetings

The Indian Education Committee shall meet not less than eight times a year including the Annual Meeting. A majority of the members present at any meeting may adjourn the meeting. All meetings will be held using parliamentary procedures to conduct an orderly meeting. IEC meetings must be held in accordance with the school district's (contractor) meeting policies. The IEC shall vote on all issues brought before them in accordance with the approved agenda.

Section 1: Regular Meetings

- A. The date and time of the regular IEC meeting shall be the first Monday of each month, unless date falls on holiday time, it will be on the following Monday, held at the Wetmore Center from 5:30-7:00 pm.
- B. Notice of the regular meetings shall be published on the NAEP district website, NAEP social media, and at the Wetmore Center stating the date, hours and location of the meeting.
- C. IEC (monthly) packets shall be mailed and/or emailed to each member not less than five days prior to each meeting. All regular meetings shall be open to the public.

The Monthly packets shall include:

1. The Agenda
2. Copy of last IEC meeting minutes
3. Staff Reports
4. Financial Reports

Section 2: Special/Emergency Meeting

Special/Emergency meetings of the IEC may be called by the Chairperson or by a majority vote of the committee. All IEC members shall be given a two day notice by telephone and/or by email of the special/emergency meeting. The IEC members must be given the purpose of the special/emergency meeting. Agenda items must be limited to those areas of concern causing the call of the special/emergency meeting. **No other items may be added or discussed during the meeting.**

Section 3: Informal meetings of the IEC

Informal meetings (work sessions) are conducted when a quorum of the IEC is not established at a regular or special meetings. No formal action (motions) will be taken at any informal meeting unless by action of the IEC noted from a previous meeting where the IEC has approved the Officers to act on behalf of the IEC.

Section 4: Executive Session meeting (no minutes or recording are to be made in this session)

The participants of an executive session are not to discuss or disclose the issues made known the executive session. An executive session may be called by any two members of the IEC, before or during a regular IEC meeting. To qualify for an executive session, the issue must be one of the following:

- A. Personnel matters
- B. Misconduct of an IEC member
- C. Dealing with sensitive issues pertaining to program
- D. Once out of session a formal motion of action **must** be brought up at the regular meeting. (Table, vote up or down on an issue)

Section 5: Quorum

The presence of a simple majority of the committee shall be required to constitute a quorum necessary for the transaction of the business of the Indian Education Committee. No decision of the committee shall be valid unless there is a majority vote of the members constituting a quorum.

Section 6: Agenda

- A. The agenda for each meeting shall be prepared by the chairperson. Individual members of the Indian Education Committee are encouraged to submit agenda items for the chairperson or present their proposals formally under the agenda item of "Approval of Agenda".

- B. An item may be placed on the agenda by contacting the chairperson at least seven days prior to the regular meeting date.
- C. In accordance with the Arizona Open Meeting Act an agenda must be posted at the place of the regular meeting at least 24 hours in advance of the meeting.

ARTICLE VIII – Parliamentary Authority

The Amphitheater Indian Education Committee will conduct their meetings in accordance with Parliamentary Procedures.

ARTICLE IX – Amending the By-Laws

The By-Laws shall be amended only at a regular meeting by a majority vote of the members of the IEC in attendance. Provided that the amendment is to carry out the purpose and objectives of the parent committee as sited in Article III, Sections 1-3. Any amendment must conform to the rules and regulations of the Federal Register, Code of Federal Regulations 25 CFR, Part 273.15.

ARTICLE X – Grievance Procedure

Grievance procedures for complaints from Amphitheater Native American students, parents and NAEP staff relating to program(s) contracted under Johnson-O’Malley shall be as follows:

- Section 1: The complainant shall submit a grievance in writing to the Indian Education Committee for investigative review and action.
- A. Upon receipt of a written complaint, the IEC shall, within 15 working days, make an investigation document and submit its findings to the complainant. If the complaint cannot be resolved with the specified time, the Indian Education Committee may request additional time from the complainant.
 - B. If the complaint cannot be resolved by the Indian Education Committee to the satisfaction of the complainant, the IEC shall forward the complaint with all investigative documents, findings, and /or recommendations to the Amphitheater Director of State and Federal Programs.

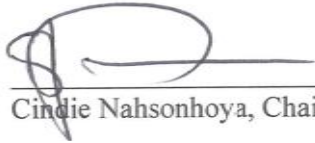
- Section 2: The Amphitheater Director of State and Federal Programs shall proceed as follows:
- A. Schedule a meeting with the IEC Chairperson within 10 working days after a complaint has been received.
 - B. A grievance committee consisting of: the Director of State and Federal Programs, IEC Chairperson and a IEC member will review the complaint, investigative documents, findings, and /or recommendations.
 - C. Within 10 working days of this meeting, the Director of State and Federal Programs will contact the complainant to review the grievance committee disposition in resolving the complaint.
 - D. The findings of the Director of State & Federal Intervention Programs shall be final.

ARTICLE XI – Ratification

These By-Laws shall be declared adopted by the Indian Education Committee when passed by majority of the full membership of the committee, at a general meeting of the committee.

These By-Laws are approved by the Amphitheater JOM Indian Education Committee at a regular meeting held on February 12, 2015.

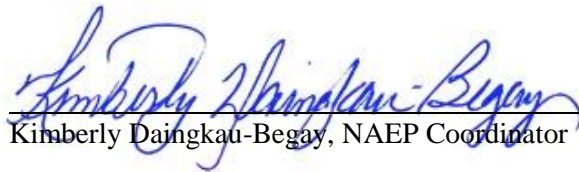
IN WITNESS THEREOF,



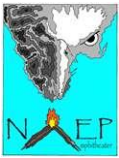
Cindie Nahsonhoya, Chairperson



Christine Nelson, Secretary/Treasurer



Kimberly Daingkau-Begay, NAEP Coordinator



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Definition of “*in loco parentis*”

This definition is provided so that tribes would have the option to allow grandparents, and other extended family members who are raising their grandchildren, nieces and nephews the opportunity to serve on the JOM parent committee. Within the Indian communities it is unlikely that extended family members have legal custody (court documentation) of the children they provide 24 hour care for. This definition is provided to offer the JOM program the ability to include those extended family members, who are the primary care givers, the responsibility to be involved in the education of their grandchildren.

In loco parentis is a Latin phrase defined as: “in the place of a parent”. The English language definition is: “Acting as a temporary guardian of a child.” (Black’s Law Dictionary).

Johnson-O’Malley Indian Education Committee members, who are exercising ***in loco parentis***, should also have daily responsibility for a student’s health, safety and welfare.

PARENT – The term parent includes a legal guardian or other person standing *in loco parentis* (such as a grandparent or stepparent with who the child lives, or a person who is legally responsible for the child’s welfare).

The term "*in loco parentis*", according to is generally accepted common law meaning, refers to a person who has put himself in the situation of a lawful parent by assuming the obligations incident to the parental relation without going through the formalities necessary to legal adoption. It embodies the two ideas of assuming parental status and discharging the parental duties....The key in determining whether the relationship is found is the intention of the person allegedly *in loco parentis* to assume the status a parent toward the child. The intent to assume such parental status can be inferred from the acts of the parties. Other factors which are considered in determining whether *in loco parentis* status has been assumed are (1) the age of the child; (2) the degree to which the child is defendant on the person claiming to be standing *in loco parentis*; (3) the amount of support, if any, provided; and (4) the extent to which duties commonly associated with parenthood are exercised....

The definitions of the term "*in loco parentis*" are often context specific, and no court-or regulation- has defined the term exhaustively. The presence of a biological parent in the home may foreclose another from holding the status of "*in loco parentis*."