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7  
8 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**  
9 **IN AND FOR THE COUNTY OF MARICOPA**

10 FACULTY EXECUTIVE COUNCIL OF THE )  
MARICOPA COMMUNITY COLLEGES )  
DISTRICT, a non-profit corporation, )

11 Plaintiff,

12 v.

13 MARICOPA COUNTY COMMUNITY )  
14 COLLEGES DISTRICT, a body politic; )  
GOVERNING BOARD OF MARICOPA )  
15 COUNTY COMMUNITY COLLEGES )  
DISTRICT; LAURIN HENDRIX, JOHANNA )  
16 HAVER, AUGUSTINE BARTNING, TRACY )  
LIVINGSTON, JEAN MCGRATH, DANA )  
17 SAAR, and LINDA THOR in their official )  
capacity as members of the Governing Board )  
18 of Maricopa Community Colleges District. )

19 Defendants.  
20

No.

**COMPLAINT FOR  
SPECIAL ACTION**

(An act arbitrary, capricious,  
contrary to law, and an  
abuse of discretion)

21 The Plaintiff, Faculty Executive Council of the Maricopa Community Colleges  
22 District (“Faculty Association”), by and through the counsel undersigned for its Special  
23 Action complaint, alleges as follows:

24 **I. JURISDICTION AND VENUE**

25 1. Pursuant to Rules 3(C) and 4 of the Arizona Rules of Procedure for Special Actions  
26

1 and Arizona Revised Statutes (A.R.S. ) § 12-2001, this Court has jurisdiction to hear and  
2 determine this special action complaint and to grant the relief requested.

3 2. The Maricopa County Superior Court is the appropriate venue pursuant to Rule  
4 4(b) of the Arizona Rules of Procedure for Special Actions.

5 **II. PARTIES**

6 3. Plaintiff is a non-profit corporation authorized to do business in the County of  
7 Maricopa, State of Arizona. Plaintiff has been the non-exclusive meet and confer  
8 representative for all residential faculty of the Maricopa County Community Colleges  
9 District for more than forty years, and, as such, is the authorized signature party for  
10 residential faculty for purposes of the contract between the parties known as the  
11 Residential Faculty Policies (RFP).

12 4. Defendant Maricopa County Community Colleges District (“MCCCD”) is a body  
13 politic.

14 5. Defendant Governing Board of the Maricopa County Community Colleges District  
15 is an administrative agency existing pursuant to the laws of the State of Arizona,  
16 comprised of elected individual Defendants set forth below.

17 6. Defendants Laurin Hendrix, Johanna Haver, Augustine Bartning, Tracy  
18 Linvingston, Jean McGrath, Dana Saar, and Linda Thor are, and were at all relevant  
19 times, elected members of the Governing Board of Maricopa County Community  
20 Colleges District.

21 7. Defendant MCCCD is a governmental entity operating as such within and pursuant  
22 to the laws of the State of Arizona. All the events and/or transactions set forth herein  
23 occurred in the County of Maricopa, State of Arizona.

24 **III. FACTUAL AND PROCEDURAL BACKGROUND**

25 8. Defendants MCCCD, the Governing Board of Maricopa County Community  
26 Colleges District and a majority of individual board members thereof enacted a Resolution

1 on February 27, 2018 whereby the Defendants, collectively, eliminated certain sections of  
2 the existing contract by and between the parties, the Residential Faculty Policies effective  
3 July 1, 2017, namely the meet and confer process as set forth in Sections 1.2 and 7.6. In  
4 addition, the Defendants eliminated all paid “release time” for any member of the Faculty  
5 Executive Council and for any employee of the MCCCCD that currently participates in the  
6 meet and confer process.

7 9. Elimination of these provisions from the existing contract between the parties was  
8 predicated on declarations set forth in the Resolution, namely that the Defendants based the  
9 afore-referenced action on a perceived violation of ARS §11-410 prohibiting employees of  
10 MCCCCD from engaging in activities for a political action committee while on duty. More  
11 specifically, the chair of the Governing Board, Laurin Hendrix, specifically stated, in support  
12 of this resolution, that the Plaintiff violated this statute, referencing documents designed for  
13 fund raising purposes authored by a faculty member of the MCCCCD. However, those  
14 documents, upon which the Board acted, were mis-characterized and falsely described. The  
15 documents were not created nor was there any effort to engage in fund raising activities while  
16 on duty or in the capacity of a faculty for the MCCCCD; to the contrary, the documents which  
17 were referred to as support for the afore-referenced resolution were entirely produced and  
18 sent while in an off duty, non-working capacity.

19 10. In addition, the part of the Resolution eliminating the meet and confer process for the  
20 Faculty Association was based on an erroneous reading of the law, namely, A.R.S. §15-1444  
21 relating to collective bargaining, a law that does not, as the resolution claims, outlaw meeting  
22 and conferring.

23 **BASIS FOR SPECIAL ACTION**

24 11. Thus, in the manner as afore-described, Defendants acted in a manner that was  
25 capricious, arbitrary and contrary to law by taking an action and making a determination  
26 based upon the statements made at the time of the Resolution to the effect as above-

1 described, all of which were predicated on false assumptions, mis-characterized events and  
2 facts that did not occur. As such, the actions of the Defendants, and each of them, were  
3 arbitrary, capricious and contrary to law and thereby should be rescinded by order of this  
4 court.

5 12. The Defendants, acting upon the information provided by Defendant Laurin Hendrix,  
6 predicated the afore-referenced Resolution on false information whereby the actions as  
7 described, to wit: enacting the Resolution eliminating all paid release time for any member  
8 of the Faculty Executive Council and the elimination of the meet and confer were an abuse  
9 of discretion, arbitrary and capricious in that action was based on false conclusions that  
10 members of the Faculty Association had violated the afore-referenced state law.

11 13. In fact, Plaintiff, and its members, at all times acted in accordance with the referenced  
12 statutes in the resolution and were not in violation thereof.

13 14. Specifically, the elimination of all release time for any member of the Faculty  
14 Executive Council, the governing body of Plaintiff Faculty Association, and elimination of  
15 the meet and confer process were acts that in all respects, for the reasons stated herein, were  
16 arbitrary and capricious and, as such, this Court should remand for purposes of rescission of  
17 the Resolution of February 27, 2018.

18 **DESIGNATION OF RECORD**

19 15. Plaintiff designates the following to be filed as part of the record on special action  
20 review:

- 21 A. Minutes of the board meeting on February 27, 2018.
- 22 B. Exhibits referenced by board members at the board meeting on February 27,  
23 2018.
- 24 C. Video recording of the board meeting of February 27, 2018.
- 25 D. The Resolution executed by the Governing Board on February 27, 2018.

1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff prays for judgment against the Defendants as follows:

- 3 1. That this Court determine that the Defendants acted arbitrarily, capriciously,  
4 and contrary to law, thereby abusing their discretion and remand this matter  
5 back to Defendants for action consistent with the order herein.
- 6 2. Plaintiff also requests attorneys' fees and costs incurred herein, and for such  
7 other further release as the court deems just and proper in the premises.

8 DATED this \_\_\_\_ day of March, 2018.

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