

September 24, 2018

VIA U.S. and ELECTRONIC MAIL

(bgdanley@hlcommission.org, asweeney@hlcommission.org)

Dr. Barbara Gellman-Danley, President
Dr. Anthea M. Sweeney, Vice-President for Legal and Governmental Affairs
Higher Learning Commission
230 South LaSalle Street, Suite 7-500
Chicago, IL 60604

Re: Violations of Criteria for Accreditation

Dear Commission:

We write to bring to your attention serious violations of the Criteria for Accreditation at the Maricopa Community Colleges and to request that you send a site team to inquire into these violations.

For many years, our community has benefited from the Maricopa Community Colleges' commitment to student learning, community involvement, and collaborative decision making, and the Colleges have enjoyed a well-deserved national reputation for excellence. Unfortunately, a confluence of recent events¹ has brought the Maricopa Community Colleges system into disarray and dysfunction, resulting in a number of serious accreditation violations. We are therefore writing to urge you to send a site team in the hope that the violations can be fully investigated and addressed.

Our own investigation remains ongoing, in large part due to the slow pace with which the administration has responded to public records requests.² However, even with limited disclosure, we have been able to identify the following areas of concern.

Area of Concern #1: Failure to Prioritize the Institution's Educational Responsibilities

The first area of concern is an overarching one that appears to underlie many of the more specific accreditation violations discussed below: the prioritization of political and electoral gains over the interests of the Colleges and their students.

HLC's standards for accreditation state unequivocally and repeatedly that educational institutions must maintain student learning as their primary focus and avoid any undue influence by extrinsic interests, whether they be financial, personal, or political.

¹ Attached as Exhibit 1 is a list of recent press articles regarding the Colleges, which provide useful background information.

² September 10, 2018 Email from L. Cooper to E. Wilson, attached as Exhibit 2.

Integrity means doing what the mission calls for and not doing what it does not call for; governance systems that are freely, independently, and rigorously focused on the welfare of the institution and its students; scrupulous avoidance of misleading statements or practices. . . .³

The well-being of an institution requires that its governing board place that well-being above the interests of its own members and the interests of any other entity. . . . The governing board must have the independent authority for such accountability and must also hold itself independent of undue influence from individuals, be they donors, elected officials, supporters of athletics, shareholders, or others with personal or political interests.⁴

The institution's educational responsibilities take primacy over other purposes, such as generating financial returns for investors, contributing to a related or parent organization, or supporting external interests.⁵

The governing board's deliberations reflect priorities to preserve and enhance the institution.⁶

The governing board preserves its independence from undue influence on the part of donors, elected officials, ownership interests, or other external parties when such influence would not be in the best interest of the institution.⁷

These principles are echoed in the Governing Board's own policies, which require that it govern in a manner that is non-partisan, that emphasizes integrity and truthfulness, encourages a diversity of viewpoints and respect for persons, and makes collective rather than individual decisions.⁸ Individual Board members are subject to a code of conduct that requires, among other things, that they "demonstrate unconflicted loyalty to the interests of the entire community of Maricopa County" and that they "serve on a nonpartisan basis . . . as a steward on behalf of the college district."⁹

³ Guiding Principle 6: Integrity, transparency, and ethical behavior or practice.

⁴ Guiding Principle 7: Governance for the well-being of the institution.

⁵ Criterion 1.D.2.

⁶ Criterion 2.C.1.

⁷ Criterion 2.C.3.

⁸ Board Policy 4.2: Manner of Governing, attached as Exhibit 3.

⁹ Board Policy 4.10: Board Members Code of Conduct, attached as Exhibit 4.

Unfortunately, certain members of the Colleges' current Governing Board appear to be substantially motivated by ideological or political interests, and to act on those interests even when doing so does not benefit students or support the educational mission of the Colleges.

A particularly notable recent example of this kind of conduct was in the Spring of 2017 when one of the members of the Governing Board, on her own initiative, emailed every member of the Arizona House of Representatives to oppose additional state funding for the Colleges, relying on information she claimed to have obtained as a result of her position on the Board and characterizing the District's own request to be restored to state funding after having been zeroed out during the recession as based solely on being "miffed at being left out of the budget."¹⁰

The next year, the same member corresponded with a community member opposing any additional funding for the District and asserting that the "liberal staff went behind our back and hired a lobbyist to lobby for money from the state."¹¹ Those statements were made even without examining the specific bill to which she expressed her opposition, which would have allocated \$11 million to the Colleges for STEM and workforce programs.¹² The Board's president joined her in opposition to the proposed additional funding, directing the Chancellor that the District's lobbyists should be told to oppose the allocation.¹³

Both of these Board members have specifically acknowledged the political benefits that they have obtained from taking these and other similarly "conservative" positions. Ms. McGrath, the Board member who opposes any additional funding even when she does not know what it is for, has commented that "[s]ometimes it is fun to be the most unpopular person on campus" and that she talks about her actions on the Board to the applause of audiences.¹⁴

The Board President, Mr. Hendrix, commented to the Chancellor on the approving comments he had received at the state Republican party convention during an election year about the "conservative direction of MCCCDC" and then went on to suggest a policy agenda that included rejecting any state funding and eliminating the District's longstanding practice of joint policy development with faculty through a meet-and-confer process that he admitted he did not understand in sufficient detail to discuss publicly.¹⁵ Addressing specific policy issues, the Board

¹⁰ March 28, 2017 Email from M. Harper-Marinick to A. Gutierrez and L. Thor, attached as Exhibit 5 (forwarding message from J. McGrath captioned "Former State Legislator Says Maricopa Community College Doesn't Need More Taxpayer Money").

¹¹ January 31, 2018 Email from L. Hendrix to M. Harper-Marinick (forwarding January 30 email exchange between J. McGrath and J. Borrajero), attached as Exhibit 6.

¹² *Id.*

¹³ *Id.*

¹⁴ August 24, 2017 Email from J. McGrath to J. Darbut, attached as Exhibit 7; February 14, 2018 Email from J. McGrath to J. Darbut, attached as Exhibit 8; *see also* Excerpt from J. McGrath Campaign Literature, attached as Exhibit 9.

¹⁵ January 28, 2018 Email from L. Hendrix to M. Harper-Marinick, attached as Exhibit 10.

President told the Chancellor that it was his “intent to try to have something on each agenda that provides talking points for a few of the members that are making the speaking tour rounds as part of campaigns,” giving them “victories” to discuss so that they will remain supportive of his other desired agenda items.¹⁶

These apparently political motivations provide context for the specific examples of accreditation violations discussed below.

Area of Concern #2: Violations of Freedom of Expression and Disparate Treatment Based on Religious or Political Viewpoints

Consistent with their emphasis on the primacy of the educational mission, the standards for accreditation require that institutions honor freedom of expression and respect the diversity of perspectives and backgrounds of the communities they serve.

The institution’s processes and activities reflect attention to human diversity as appropriate within its mission and for the constituencies it serves.¹⁷

The institution is committed to freedom of expression and the pursuit of truth in teaching and learning.¹⁸

These standards have been openly and repeatedly violated by certain members of the Governing Board.

A notable recent example of these violations began in response to a November 2017 program, organized by the student government at Mesa Community College, at which the American Civil Liberties Union (ACLU) was invited to provide training on students’ legal rights, followed by a panel discussion involving representatives of the ACLU and various community organizations including Black Lives Matter and the Council for American-Islamic Relations (CAIR).

At the next Governing Board meeting, the Board was scheduled to consider leasing land at the Mesa Community College main campus to be used as a charter high school. Two Board members used that discussion as an opportunity to express concerns about the “Know Your Rights” program, which they contended reflected a lack of responsible leadership by the administration at Mesa. One board member indicated that she was concerned about the

¹⁶ October 20, 2017 Email from L. Hendrix to M. Harper-Marinick, attached as Exhibit 11.

¹⁷ Criterion 1.C.2.

¹⁸ Criterion 2.D. Arizona state law also has strong protections for freedom of expression by students, faculty, and visitors to its campuses, including various provisions of state law based on a model proposal advocated by the Goldwater Institute. See A.R.S. §§ 15-1861 through 15-1869.; see also Goldwater Institute, Campus Free Speech: A Legislative Proposal, available at <https://goldwaterinstitute.org/article/campus-free-speech-a-legislative-proposal/>.

“children,” stating that while she acknowledges that students have academic freedom, it should be impermissible to have a program that failed to include a diversity of opinion instead of “promoting a radical political agenda.”¹⁹ Another characterized the program as a “misuse” of public resources both because the program speakers criticized law enforcement and because, when she used the women’s restroom after the event, she discovered that free feminine hygiene products and prophylactics had been made available.²⁰ Her concerned speech ended by producing one of the condoms she had found in the restroom, reading the brand and model information from it, and expressing the view that it would be imprudent to lease property for a secondary school and to expose high school students to such items.

At the subsequent Board meeting, two representatives of the student government addressed the Board to correct the record.²¹ They explained that the Know Your Rights program had been organized by the student government, not the administration, in response to specific input from students during a survey of their constituents. All of the supplies were either funded by student government funds (the water and snacks) or donated (the feminine hygiene products and prophylactics). In response to the claim that they were failing to present multiple viewpoints, they explained the various ways in which they were interacting with law enforcement, including meeting with immigration enforcement officials (who declined to come to campus but had a productive meeting with student government representatives), inviting other law enforcement officials to attend and listen to the Know Your Rights program (which they did without objection), and doing service projects to benefit law enforcement. They also clarified that a different speaker, a sitting legislator, had cancelled a planned appearance due to logistical concerns rather than because the students opposed him speaking. Lastly, they asked to hear directly about any concerns in the future, so that they could resolve any misinformation before any conclusions were reached.

Rather than acknowledging that the facts of the program had been misunderstood, the Board members dug into their position. The morning after the students made their presentation, one of the Board members sent the following email to the entire Board, the President of Mesa Community College, and a faculty leader:

Dear Friends,

I reviewed my comments and those of Mrs. McGrath that were criticized by the leaders of the student groups at MCC, I thought maybe I had misspoke in some way but I had not – nor had Mrs. McGrath. There is such a thing as supporting “values” at an

¹⁹ November 28, 2017 Board Meeting Video at 1:38:02-1:41:17, *available at* <https://mctv.maricopa.edu/mctv-desktube/governing-board>.

²⁰ November 28, 2017 Board Meeting Video at 1:45:00-1:47:48, *available at* <https://mctv.maricopa.edu/mctv-desktube/governing-board>.

²¹ December 12, 2017 Board Meeting Video at 24:03-32:40, *available at* <https://mctv.maricopa.edu/mctv-desktube/governing-board>.

institute of higher learning. We must do that or we will continue to lose students to schools that do ascribe to building character and maintaining values. Parents want that for their children.

I have encouraged a young man in high school and his younger sister who are part of my family and live in Mesa to attend MCC. I am now thinking that may not be the best fit for either of them. *They are not into promiscuity nor supportive of terrorist groups, so most likely they would not fit in.*²²

The same Board members opposed a “cultural bridges” program organized by a faculty member on the grounds that the students would listen to a speaker from CAIR and that the students would go to Chicano Park.²³ CAIR is a non-profit organization with a stated mission to “enhance understanding of Islam, protect civil rights, promote justice, and empower American Muslims.”²⁴ However, certain Governing Board members have circulated multiple emails suggesting that CAIR is a radical organization and casting doubt on the appropriateness of any Muslims being in positions of authority or influence, including as instructors.²⁵ Those same Board members expressed concern about taking students to Chicano Park, a nearly 50-year old park in Downtown San Diego with a long history in the Chicano community and a large collection of murals and sculptures.²⁶ According to the Board members, Chicano Park is “a highly controversial park with murals and anti-Trump stuff. Our students have no business going there.”²⁷ Instead, they suggested that the professor should be asked to take the students “to visit Reagan and Nixon’s libraries,” which they had visited and found “worthwhile,” but then only at the students’ personal expense without the use of taxpayer funds.²⁸

²² December 13, 2017 Email from J. Haver to Board, Mesa Community College President S. Poureetezadi, Faculty Association Past President K. Heffner, attached as Exhibit 12 (emphasis added).

²³ Board Correspondence Regarding Cultural Bridges Program, attached as Exhibit 13.

²⁴ See Vision and Mission, Council on American-Islamic Relations, *available at* https://www.cair.com/about_us.

²⁵ Board Correspondence Regarding Cultural Bridges Program, attached as Exhibit 13, at NAPIER 212-17 (October 15-16, 2017 Emails Between J. McGrath and J. Haver objecting that “MCCCD has been spending taxpayer dollars for indoctrination of faculty and students by CAIR”); *id.* at NAPIER 256 (October 7, 2017 Email from J. McGrath to J. Haver). Arizona state law expressly prohibits community colleges from discriminating against students on the basis of religious belief or expression. A.R.S. § 15-1862.

²⁶ San Diego Tourism Authority, “Chicano Park: National Landmark, Local Treasure,” *available at* <https://www.sandiego.org/articles/parks-gardens/chicano-park.aspx>; The History of Chicano Park, *available at* <http://www.chicanoparksandiego.com/index.html>.

²⁷ Board Correspondence Regarding Cultural Bridges Program, attached as Exhibit 13, at NAPIER 255 (October 25, 2017 Email from J. Haver to J. McGrath).

²⁸ *Id.* at NAPIER 223 (October 25, 2017 Email from J. Haver to J. McGrath).

Eventually, these Board members indicated that they would vote against all funding for any programs to Mesa Community College unless the cultural bridges program was cancelled.²⁹ Even after being reminded by the Chancellor that classes and programs cannot be cancelled because Board members disagree with the viewpoints of faculty, speakers, or students, the Board members continued their opposition to the program, again raising objections after learning that the administration had made arrangements to have the trip privately funded rather than cancelling it entirely.³⁰

Area of Concern #3: Retaliation Against Dissenters and Refusal to Engage in Collaborative Practices (including whistleblower)

Members of the current Board have demonstrated similar intolerance for disagreement between themselves the District's faculty and staff, running afoul not only of the accreditation criteria regarding freedom of expression and tolerance of diversity discussed above, but also the more specific criteria prohibiting retaliation and requiring collaborative decision making with internal and external stakeholders.

Governance of a quality institution of higher education will include a significant role for faculty, in particular with regard to currency and sufficiency of the curriculum, expectations for student performance, qualifications of the instructional staff, and adequacy of resources for instructional support.³¹

The institution operates with integrity in its financial, academic, personnel, and auxiliary functions; it establishes fair and ethical policies and processes for its governing board, administration, faculty, and staff.³²

The governing board reviews and considers the reasonable and relevant interests of the institution's internal and external constituencies during its decision-making deliberations.³³

²⁹ *Id.* at Napier 378 (November 1, 2017 Email from J. McGrath to G. Murphy); *id.* at NAPIER 62 (October 26, 2017 Email from J. Haver to M. Harper-Marinick, J. McGrath, and L. Hendrix); *id.* at NAPIER 231 (October 26, 2017 Email from J. Haver to L. Hendrix and J. McGrath); November 27, 2017 Email from J. McGrath to L. Hendrix, attached as Exhibit 14.

³⁰ Board Correspondence Regarding Cultural Bridges Program, attached as Exhibit 13, at NAPIER 371-72 (January 8, 2018 Correspondence Between J. McGrath, M. Harper-Marinick, S. Pouretezadi, and J. Haver).

³¹ Guiding Principle 7.

³² Criterion 2.A.

³³ Criterion 2.C.2.

The governing board delegates day-to-day management of the institution to the administration and expects the faculty to oversee academic matters.³⁴

The institution's governance and administrative structures promote effective leadership and support collaborative processes that enable the institution to fulfill its mission.³⁵

The institution has and employs policies and procedures to engage its internal constituencies—including its governing board, administration, faculty, staff, and students---in the institution's governance.³⁶

The institution enables the involvement of its administration, faculty, staff, and students in setting academic requirements, policy, and processes through effective structures for contribution and collaborative effort.³⁷

The planning process encompasses the institution as a whole and considers the perspectives of internal and external constituent groups.³⁸

The institution assures its employees and students that it will consider fairly all complaints and third-party comments and not engage in retaliatory action against any who has submitted such information.³⁹

In the Spring of 2017, certain members of the Governing Board began a concentrated campaign to eliminate the Colleges' traditional mechanisms of shared governance and collaborative decision making, working from a "transformation blueprint" solicited from a Vice President at one of the colleges by an individual board member.⁴⁰ The blueprint envisioned, among other

³⁴ Criterion 2.C.4.

³⁵ Criterion 5.B.

³⁶ Criterion 5.B.1.

³⁷ Criterion 5.B.3.

³⁸ Criterion 5.C.3.

³⁹ Assumed Practice 5.7.

⁴⁰ March 28, 2017 Email from M. Harper-Marinick to A. Gutierrez and L. Thor, attached as Exhibit 5; April 28, 2017 Email from J. McGrath to M. Harper-Marinick, attached as Exhibit 15. The Board member who obtained the proposal from a College Vice President has repeatedly attempted to give directives directly to staff in violation of Board policies. August 9, 2017 Email from L. Thor to M. Harper-Marinick and L. Hendrix, attached as Exhibit 16; *see also* Board Policy

things, “transfer[ring] curriculum control and development from faculty to administration,” requiring the use of electronic course books selected by the administration, eliminating “shared governance” and participation by faculty or staff in budgeting and hiring, replacing faculty department chairs with at-will administrators appointed by college presidents, and eliminating athletic programs.⁴¹

Over the subsequent months, various decisions implementing this blueprint have been made, even where doing so conflicted with or ignored existing processes for obtaining input from stakeholders. One especially high-profile example of this was the recent elimination of football programs at all Colleges, a decision that was announced by the Chancellor unilaterally, without input from coaches, players, alumni, or other community stakeholders, and after terminating a process that had begun deliberating about the future of athletics programs.⁴²

In addition, the campaign to adopt the proposed “transformation blueprint” included two particularly high-profile incidents of retaliation. The first involved the dissolution of the Classified Staff Council, a body elected from all employed staff, after its president brought well-documented concerns to the Governing Board in an open meeting.⁴³ At the time, Board members corresponded with each other that dissolving the Council and eliminating time reassignments for staff members to do the Council’s work would send a message to the faculty “that we could do the same to them.”⁴⁴

Over the next several months, various members of the Board corresponded regarding their plan to similarly eliminate the process for meeting and conferring with faculty regarding institutional policy, despite repeatedly stating in those same emails that they did not understand the process and needed additional information.⁴⁵ Finally, in the Spring of 2018, the Board not only

4.10, attached as Exhibit 3; Criterion 2.D (“The governing board delegates day-to-day management of the institution to the administration. . .”).

⁴¹ March 28, 2017 Email from M. Harper-Marinick to A. Gutierrez and L. Thor, attached as Exhibit 5 (at attached report).

⁴² February 5, 2018 Email from S. Poureetezadi to Mesa Community College, attached as Exhibit 17; *see also* October 20, 2017 Email from L. Hendrix to M. Harper-Marinick, attached as Exhibit 11 (characterizing football as a hot button issue for certain Board members on the campaign trail).

⁴³ February 28, 2017 Board Meeting Video starting at 1:27:48, *available at* <https://mctv.maricopa.edu/mctv-desktube/governing-board>; Minutes of August 22, 2017 Regular Board Meeting, attached as Exhibit 18, at 8-9.

⁴⁴ June 24, 2017 Email Correspondence among J. Haver, M. Harper-Marinick, and L. Hendrix, attached as Exhibit 19.

⁴⁵ January 31, 2018 Email from L. Hendrix to M. Harper-Marinick, attached as Exhibit 6; February 6, 2018 Email from L. Hendrix to M. Harper-Marinick, attached as Exhibit 20; August 17-20, 2017 Email Correspondence Between M. Harper-Marinick and L. Hendrix, attached as Exhibit 21; September 10, 2017 Email from M. Harper-Marinick and L. Hendrix, attached as Exhibit 22.

ended the meet and confer process but rescinded the existing employee manual in the middle of a contract year.⁴⁶ The offered justification for this action was that the faculty association had sent a campaign fundraising email to faculty members on private time, using private emails – an act of free speech protected by both state law and the U.S. and Arizona Constitutions.⁴⁷

In the subsequent months, the Board’s active opposition to the expression of opposing viewpoints has continued. The Board adopted a “civility” policy that it interprets to forbid raising any criticism of the Board or any administrator, even during the public comment portion of its meetings.⁴⁸ When a faculty association leader submitted a letter to the editor published by the local paper addressing the controversy, one of the Board members sent an email to the Board and the Vice-Chancellor of Human Resources complaining that it was unfair for his letter to be published more broadly than her own had been.⁴⁹ Troubling rumors are also ongoing that certain Board members have investigated the voter registrations of administrators to determine their political party registration.⁵⁰

Area of Concern #4: Failure to Follow Established Procedures, Especially Regarding Public Input and Transparency

As reflected in the above narrative, the Colleges have experienced significant turmoil over the last two years, and with that turmoil has come increased public scrutiny. The criteria for

⁴⁶ February 27, 2018 Board Meeting Video starting at 55:34, *available at* <https://mctv.maricopa.edu/mctv-desktube/governing-board>.

⁴⁷ February 20, 2018 Board Meeting Video, *available at* <https://youtu.be/LAwDRHV2CNA>. See A.R.S. §§ 15-1408(F), 15-1864(G), 15-1866(A)(3); *see also* Arizona Attorney General, Guidelines for Use of Community College District Resources to Influence the Outcome of Elections at 4-5 (2006) (recognizing right of community college employees to engage in advocacy and express opinions in their private capacity while off-duty), *available at* <https://www.azag.gov/sites/default/files/publications/2018-06/GuidelinesUseOfCommunityCollegeResourcesReElections.pdf>.

⁴⁸ August 20, 2017 Email from L. Hendrix to M. Harper-Marinick, attached as Exhibit 21; *see also, e.g.*, Minutes of August 22, 2017 Board Meeting, attached as Exhibit 18 at 12 (describing Board president directing students to stop speaking during citizen comment portion of agenda in response to their specific comments); August 22, 2017 Board Meeting Video at 1:35:38-1:39:00, *available at* <https://mctv.maricopa.edu/mctv-desktube/governing-board> (same). This was a shift in approach for the Board, which had previously adopted a resolution encouraging employee speech. *See* Minutes of February 28, 2017 Governing Board Meeting, attached at Exhibit 23, at 7 (adopting Board resolution providing that, in order for the Governing Board to fulfill its fiduciary responsibilities, “[e]veryone employed by the District is authorized to speak freely and responsibly to Board members individually and in our formal sessions”).

⁴⁹ May 5, 2018 Email from J. Haver to Board Members, attached as Exhibit 24.

⁵⁰ At present, we have been unable to find documentary evidence to confirm or rebut this rumor, though many public records requests remain outstanding. *See* September 10, 2018 Email from L. Cooper to E. Wilson, attached as Exhibit 1.

accreditation require that the Colleges meet this public scrutiny with honesty and transparency, establishing and following processes for decision making, conflict resolution, and budgeting.

The institution presents itself clearly and completely to its students and to the public with regard to its programs, requirements, faculty and staff, costs to students, control, and accreditation relationships.⁵¹

The institution's resource base supports its current educational programs and its plans for maintaining and strengthening their quality in the future.⁵²

The institution has a well-developed process in place for budgeting and for monitoring expense.⁵³

The governing board is knowledgeable about the institution; it provides oversight for the institution's financial and academic policies and procedures and meets its legal and fiduciary responsibilities.⁵⁴

The institution provides its students, administrators, faculty, and staff with policies and procedures informing them of their rights and responsibilities within the institution.⁵⁵

The institution assures that all data it makes public are accurate and complete, including those reporting on student achievement of learning and student persistence, retention, and completion.⁵⁶

The institution has a prepared budget for the current year and the capacity to compare it with budgets and actual results of previous years.⁵⁷

Arizona law contains similar provisions, requiring that Board decisions be made in open meetings, that records of all District activities be maintained and made available for public inspection upon request, and that budgets be adopted after public deliberation processes.⁵⁸

⁵¹ Criterion 2.B.

⁵² Criterion 5.A.

⁵³ Criterion 5.A.5.

⁵⁴ Criterion 5.B.2.

⁵⁵ Assumed Practice A.3.

⁵⁶ Assumed Practice A.6.

⁵⁷ Assumed Practice D.2.

⁵⁸ A.R.S. §§ 15-1461, 38-431 *et seq*; 39-121 *et seq*.

Unfortunately, even as public scrutiny of the District has increased, the Board and the administration have not held true to these principles.

Although open meeting law requires the Board to discuss issues and make decisions in public meetings, and the Board has been repeatedly cautioned to avoid violating those requirements by deliberating via email, the records that have been produced to date show multiple examples of the Board engaging in substantive discussions via email rather than in the required public meetings.⁵⁹ Although the Board itself adopted a policy of holding two readings of a policy change before adopting it, in order to facilitate deliberation and public input, the Board has chosen to overrule that policy or schedule special meetings with only a short period between them when it knows there is opposition to its decisions.⁶⁰ The Board has also become increasingly resistant to releasing information about its plans, including ending a long-established practice of holding an “agenda review” session well in advance of each meeting and reacting with outrage when agenda materials are provided to members of the public by Board members.⁶¹

Transparency requirements regarding budgeting also have not been followed. In May 2018, the Board passed a motion to “adopt the budget,” without stating the total amount of the budget it was approving.⁶² The proposed budget in the accompanying board book shows two different numbers – total expenditures of \$1.2 billion and resources available for allocation of \$1.65 billion.⁶³ The \$1.2 billion number was provided to the state auditor general on a required report and published within the proposed budget.⁶⁴ Arizona law requires a special board meeting dedicated to the adoption of a specific budget, during which the Board is permitted only to deduct and not to add to the proposed budget.⁶⁵ Given that the Board’s vote did not specify the total budget amount it was approving, and the documents presented at the meeting indicate that the budget total may be \$1.65 billion rather than \$1.2 billion, the Board’s adoption

⁵⁹ April 2-4, 2017 Email Correspondence among Chancellor, Board, and Acting General Counsel, attached as Exhibit 25; October 25-26, 2017 Email Correspondence Among Board Members, attached as Exhibit 26; October 25, 2017 Email from L. Hendrix to J. McGrath, attached as Exhibit 27; *see also* Opinion of the Arizona Attorney General No. I05-004, attached as Exhibit 28.

⁶⁰ *See, e.g.*, February 10, 2017 Email from L. Hendrix to M. Harper-Marinick, attached as Exhibit 29 (expressing desire to avoid two-read policy); January 23, 2018 Board Meeting Video at 53:50, *available at* <https://mctv.maricopa.edu/mctv-desktube/governing-board> (failing to follow policy); *see also* Board Policy 4.5, attached as Exhibit 30 at § 4.B.

⁶¹ February 18, 2018 Email from L. Thor to L. Hendrix and M. Harper-Marinick and L. Thor, attached as Exhibit 31.

⁶² May 22, 2018 Board Meeting Video at 12:34, *available at* <https://mctv.maricopa.edu/mctv-desktube/governing-board>.

⁶³ Proposed Budget from May 22, 2018 Board Book at 9, 15, 16, attached as Exhibit 32.

⁶⁴ *Id.* at 35-36 (Auditor General legal budget form).

⁶⁵ A.R.S. § 15-1461.

of the budget was not clear and transparent and may have reflected misunderstandings about what was approved or what was required by state law.

The budget as adopted also reflected several fiscal assumptions that do not appear to have been discussed or considered by the Board during the required public meetings. While the District historically has adopted budgets with eight years of projections, this budget had only three years of forecasting. Even with that reduced timeframe, the budget reflects a fund balance decrease of nearly \$70 million over that time period, raising concerns about whether there would be any fund balance remaining at the end of seven years.⁶⁶ And the budget provides reason to be concerned there will not be. It funds recurring expenses such as employee pay and technology with one-time fund transfers, without identifying sources of money to cover those expenses in future years.⁶⁷ The budget projected setting aside certain funds to stabilize health costs for a self-insured system, but then buried in a footnote that even with this infusion of funds employees would be expected to fully cover any increased costs above 6% by either paying the costs or decreasing employee benefits, either of which might not be possible or sufficient.⁶⁸ The budget also assumes that future tax increases will be sufficient to cover capital funding lost as a result of retiring bonds, an assumption that appeared to be material to the Board from its brief dialogue but which was not discussed in full and which may turn out to be incorrect.⁶⁹

Conclusion

The recent events described above raise serious concerns about the functioning of the Maricopa Community Colleges and their compliance with the Criteria for Accreditation. We implore you to send a site team to continue the investigation we have begun so that any violations may be promptly addressed and the Colleges may return their focus to serving as a vital resource to students in our community.

Sincerely,



John Schampel
President, Maricopa Community Colleges Faculty Association

⁶⁶ Proposed Budget from May 22, 2018 Board Book at 20 line 72, attached as Exhibit 32.

⁶⁷ *Id.* at 11.

⁶⁸ *Id.* at 20 n.40.

⁶⁹ *Id.* at 11.