



**PimaCountyCommunityCollegeDistrict**

**Office of the Chancellor**

---

4905C East Broadway Boulevard  
Tucson, Arizona 85709-1005  
Telephone (520) 206-4747  
Fax (520) 206-4990  
www.pima.edu

November 16, 2022

Robert Rucker  
Manager of Compliance and Complex Evaluations  
Higher Learning Commission  
230 S. LaSalle Street, Suite 7-500  
Chicago, IL 60604-1411

Via upload: <https://spaces.hightail.com/uplink/HLC-LRA>

Re: Complaint notice Oct. 17, 2022

Dear Dr. Rucker:

Pima Community College ("PCC" or "the College") submits this response to address the question of whether it is in compliance with Criterion 2, Core Component 2A, establishing and following policies and processes to ensure fair and ethical behavior. The complaints submitted by certain members of the faculty contain three primary allegations: (1) the College did not follow its policies for employee input before revising its employee classification and compensation system; (2) the College's Office of Dispute Resolution refused to consider a grievance concerning the process followed for revising the classification and compensation system; and (3) there was retaliation for expressing their negative comments. None of these allegations is supported by evidence. Rather, as discussed in detail below, the evidence demonstrates that the personal perceptions of certain faculty members are contradicted by the facts.

**Pima Community College Conducted a Detailed Review and Revision of Its Outdated Classification and Compensation System**

In March 2020, the College hired an outside consultant to conduct a study of the College's classification and compensation system and make recommendations for updating that system. (March 11, 2020 Board meeting agenda item approving study contract, attached as Exhibit 1.) At that time, approximately twenty years had passed since a comprehensive evaluation of the College's compensation system, resulting in significant concerns about how well pay rates for different positions at the College aligned with market rates. From the outset, the project anticipated significant involvement by employees. As noted in an announcement from the Human Resources Department, individual employees were expected to provide information to

be used by the consultant, and the College would form employee steering committees to provide perspectives and feedback. (Class and Comp Study Overview, attached as Exhibit 2.)

### **The College Utilized Its Shared Governance System for Employee Input**

PCC Board Policy recognizes the value of employee input into the decision-making processes of the College. The College's Governing Board has delegated to the Chancellor the responsibility to develop, implement, and maintain procedures governing employment with the College. As directed by the Board, those responsibilities include use of a structured "meet and confer" system in which each of the primary full-time regular employee classifications (i.e., non-exempt staff, exempt staff, and faculty) elects representatives to provide input for the development and revision of policies, procedures, and handbooks directly and substantially related to wages, salaries and working conditions. (Board Policy 1.25 Personnel Governance and Policy, attached as Exhibit 3.)

Pursuant to Board Policy ("BP") 1.25, the College adopted Administrative Procedure ("AP") 1.25.01 to establish and define the framework for employee input regarding employment-related policies and procedures. (AP 1.25.01, "Personnel Governance and Policy for College Employees", attached as Exhibit 4). This AP establishes the All Employee Representative Council ("AERC") as a standing body that meets monthly. Membership of the AERC includes four representatives each from the College's exempt staff, non-exempt staff, and regular faculty, as well as two representatives each from the temporary staff and adjunct faculty.<sup>1</sup> The College administration also has two representatives.

The AERC serves as a conduit for employees to submit comments, suggestions, and concerns regarding employment-related policies and procedures. Depending on the nature of the comment, AERC may recommend that a revision to a policy, procedure, or handbook is needed. (AP 1.25.01, Exhibit 4; AERC web page, attached as Exhibit 5.)

When AERC determines that such a revision should be recommended, AP 1.25.01 states that AERC should convene an item-specific meet-and-confer session. (AP 1.25.01, Section 2.3, attached as Exhibit 4). The purpose of a meet-and-confer session is to provide input and recommendations to the individual(s) responsible for making decisions on the specific item at issue. For example, if the item were a possible change to the Employee Handbook, AERC would make a recommendation to the Chief Human Resources Officer as the College-designated decision-maker, since the Human Resources Department is responsible for the interpretation and implementation of personnel policies and procedures. (Introduction to the Employee Handbook, attached as Exhibit 6.) Recommendations reflecting consensus are preferred, but if consensus cannot be reached, AERC can submit multiple recommendations.

---

<sup>1</sup> Under Arizona law, public entities like Pima Community College are prohibited from entering into collective bargaining agreements. Consistent with Arizona state law, public entities may "meet and confer" with employee representatives, meaning that the administration may receive input from employees while maintaining final decision-making authority. However, the College may not provide more favorable opportunities or working conditions for employees because they belong to an elected employee representative group. (Attorney General Op. I20-001, attached as Exhibit 7.)

(AP 1.25.01, Section 2.3.2, attached as Exhibit 4). As noted by BP 1.25 and AP 1.25.01, although AERC and employees provide input and recommendations, the final decision-making authority rests with the Board or the Chancellor (or a designee), depending on the item.

One topic specified for meet and confer relates to compensation, specifically input and recommendations for the budget development process and for how to utilize funding designated for salaries. (AP 1.25.01, Sections 2.2.1 and 2.3, attached as Exhibit 4). AERC is required to convene an annual compensation-based meet-and-confer session by no later than April each year. (AP 1.25.01, Section 2.3, Exhibit 4.)

For context related to timing, the College fiscal year runs from July 1 of each year to June 30 of the following calendar year. Per state law, the Governing Board must adopt a budget for the next fiscal year by no later than the preceding June 20, and, in advance of voting to adopt that budget, must publish the proposed budget. (A.R.S. § 15-1461, attached as Exhibit 8; Board June 8, 2022 agenda item to adopt fiscal year 2022-23 budget, attached as Exhibit 9.)

**The College Provided Significant Opportunities for Employee Input, in Accordance with Shared Governance Policies, Which Impacted the Classification and Compensation Study's Outcome**

As noted above, the College began the classification and compensation study (the "Study") in 2020. When the Study began, the expected completion date for the draft implementation plan was the first quarter of 2022, so that the results could be incorporated into the proposed budget that would be voted on by the Board in June 2022 for the next fiscal year beginning July 1, 2023. (Class Comp study Engagement Summary, attached as Exhibit 10.)

As specified in the consultant's project overview, from the outset, the Study would include two steering committees, one for faculty and one for staff, along with interviews and focus groups conducted to further gather employees' input. *Id.*

The Staff Steering Committee began its work in September 2020. The membership of the committee included Ricky Gonzalez, who is also a member of AERC. (PCC Staff Steering Committee Kick Off Meeting 09.22.20, attached as Exhibit 11.)

The Faculty Steering Committee began its work in October 2020. The membership of the committee included Makyla Hays, who is also a co-chair of AERC. (PCC Faculty Steering Committee Kick Off Meeting 10.27.20, attached as Exhibit 12.) Ms. Hays also served on the Communications Committee for the Study. (PCC Faculty Steering Committee Update Dec 2020, p. 20, attached as Exhibit 13.) Notably, Ms. Hays is named as the primary contact for the complaints against the College at issue, which Ms. Hays herself submitted to the HLC on October 7, 2022 and October 9, 2022 respectively.

The meeting materials for both steering committees show that the members were asked for and provided input on who at the College needed to be involved in the Study and what specific questions should be used to obtain employee perspectives. (See, Exhibit 11 and 12.) The two committees met a total of 33 times from October 2020 through July 2022, specifically as follows:

1. Staff Steering Committee meetings:

Sept. 24, 2020	
Nov. 5, 2020	Jan. 6, 2022
Dec. 3, 2020	Feb. 3, 2022
Jan. 7, 2020	March 3, 2022
Feb. 4, 2020	May 5, 2022
March 4, 2020	June 2, 2022
Sept. 9, 2021	July 7, 2022

2. Faculty Steering Committee meetings<sup>2</sup>:

Oct. 30, 2020	April 15, 2022
April 30, 2021	April 22, 2022
Sept. 10, 2021	April 29, 2022
Nov. 5, 2021	May 6, 2022
Nov. 18, 2021	May 13, 2022
Jan. 7, 2022	May 20, 2022
Feb. 4, 2022	May 26, 2022
March 4, 2022	June 1, 2022
April 1, 2022	July 1, 2022
April 8, 2022	

During the meetings, the Study consultants and the College's Human Resources Department shared updates about the approach being used for the Study, the progress of the Study, and, more importantly, the input that had been received from the employee committees and focus groups using questions and methods developed with the committees. (See PCC Faculty Steering Committee Meeting Dec. 4 (12-03-20), attached as Exhibit 13; PCC Staff Steering Committee Update 12.03.20, attached as Exhibit 14.)

The staff and faculty committees also discussed the results of survey data collected from employees along with potential compensation models and the trade-offs of each. (PCC Faculty Steering Committee Salary Structure Design Considerations 01.06.22, attached as Exhibit 15; PCC Faculty Steering Committee Deck 2.4.22, attached as Exhibit 16; PCC Faculty Steering Committee Deck 3.1.22, attached as Exhibit 17; PCC Staff Preliminary Market Assessment Results Update 01.06.22, attached as Exhibit 18; PCC Staff Steering Committee Deck 2.3.22, attached as Exhibit 19; PCC Staff Steering Committee Deck 3.1.22, attached as Exhibit 20.) A portion of the March 2022 Steering Committee meetings was devoted specifically to addressing questions and comments provided by faculty and staff. See Exhibit 17, p. 8-10 [Faculty Steering Committee Deck 3.1.22]; Exhibit 20, p. 7-9 [Staff Steering Committee Deck 3.1.22].)

---

<sup>2</sup> During the Study, the Faculty Steering Committee expressed concerns that not enough meetings had been scheduled. To address this concern, more meetings with the Faculty Steering Committee were added to the Study, which is why the faculty committee met several times more than the Staff Steering Committee.

AERC also addressed the Study at a number of meetings from early 2020, when the Study process began, through May 2022 as the process concluded:

AERC Meetings Related to the Study

March 13, 2020	March 16, 2021
May 22, 2020	April 12, 2021
Aug. 28, 2020	Jan. 28, 2022
Nov. 20, 2020	April 8, 2022
Jan. 29, 2021	May 13, 2022
March 12, 2021	

(AERC Class Comp Agenda Notes, attached as Exhibit 21.)

In addition to the meetings with the faculty and staff committees and AERC, presentations and meetings were held with the other College governance groups, including Staff Council and Faculty Senate, as well as presentations with “Q & A” sessions open to all employees. (A comprehensive list of meetings related to the Study is reflected in Comp Study Committee Meeting Dates, attached as Exhibit 22.)

The results of the Study with the recommended approach were presented to and approved by the Governing Board on June 8, 2022. (Bd mtg 6-8-2022 agenda item class and comp, attached as Exhibit 23.) As noted in the presentation, the College’s administration acknowledged that additional follow-up work remained on a variety of issues related to implementation. (Governing Board presentation – classification and compensation 6.8.2022, attached as Exhibit 24, see pg. 24.)

Most recently, at a November 14, 2022 study session, the Governing Board received an update on implementation of the new system. As noted in that presentation, input from the employee groups (Faculty and Staff Steering Committees and AERC) influenced the new system prior to implementation as well as defining remaining issues to be addressed. (Governing Board Study Session Presentation – Class and Compensation 11.4.2022, attached as Exhibit 25, see pg. 4 and 10-12.)

Following approval of the new classification and compensation system, the College’s administration continued to meet with AERC to address questions and suggestions related to implementation and possible revision of the new system. Since August 2022, one AERC team has been meeting with administration regarding faculty compensation issues and another has been meeting to address staff compensation issues. (FT Faculty Salary Structure tracking form, attached as Exhibit 26; Staff Pay Structure, Placement, and Resolution tracking form, attached as Exhibit 27.)

Similarly, the College’s administration recognized and understood that members of AERC were dissatisfied with the group’s role in the Study process. Accordingly, the administration has been working with AERC to clarify the role of the group and the process by which it provides input and recommendations on specific topics, as well as to revise AP 1.25.01 (which governs the

role and responsibilities of AERC) to include those topics. These meetings between the administration and AERC have taken place at least monthly from August through October 2022. (AP and AERC involvement tracking form, attached as Exhibit 28.)

**Certain Employees Filed a Grievance, Which Was Fully Considered and Appropriately Rejected by the College's Office of Dispute Resolution**

As noted above, the new classification and compensation system was approved by the Governing Board on June 8, 2022. Approximately one month later, on July 7, 2022, Makyla Hays, President of the Pima Community College Education Association and co-chair for AERC, filed a related grievance with the College's Office of Dispute Resolution. (07-07-22 grievance form, attached as Exhibit 29.)

Per College policy, a grievance is a specific type of complaint limited to "a claim by an employee that working conditions have been adversely affected by the misinterpretation or misapplication of a written policy or procedure." (Grievance policy – Employee Handbook, attached as Exhibit 30.)

In her grievance, Ms. Hays asserted "on behalf of all regular Faculty and Staff employees" that no meet and confer process had taken place with AERC in April 2022 as required by BP 1.25 and AP 1.25.01. (07-07-22 grievance form, attached as Exhibit 29.) As the remedy, Ms. Hays requested that (1) meet and confer be scheduled for September to address compensation issues; (2) changes to the appeal process and extension of the appeal deadline; (3) a public statement that policy had not been followed; and (4) retroactive pay adjustments. (*Id.*).

The Office of Dispute Resolution (ODR) is responsible for determining whether an issue is grievable and, if so, managing the grievance process. (Grievance policy – Employee Handbook, Exhibit 30; Grievance procedure – Employee Handbook, attached as Exhibit 31.) In accordance with these standards, ODR determined that Ms. Hays had not submitted a proper grievance and provided a detailed, written decision one week later on July 14, 2022. Specifically, ODR noted (1) Ms. Hays did not provide evidence that she had permission to file a grievance for all employees; (2) the grievance was untimely because she alleged the policy violation occurred in April but did not file the grievance until July, well past the 30-day deadline; (3) the grievance did not identify a respondent; and (4) there was no specific, adverse impact alleged on any employee's working conditions. (ODR determination attached as Exhibit 32.) Nevertheless, ODR forwarded the concern to the College's administrator who co-chairs AERC and to Human Resources for further consideration to clarify and resolve Ms. Hays's concern.

Thereafter followed a series of email communications between the individuals who had been specifically listed as supporting the grievance and ODR regarding those individuals' assertions and ODR's determination. As noted by ODR, despite the additional information, the employees purporting to support Ms. Hays's grievance could not overcome the fact that the submission was untimely, and that there was no adverse impact on an employee's working conditions that could be traced to an alleged lack of meet and confer, especially since there was an appeal process specifically for individual concerns about placement in the new class and compensation system. The employees supporting the grievance appear to have acknowledged as much, at least

initially, writing, “Our grievance is purely procedural, alleging the required steps for Meet and Confer delineated in AP 1.25.01 did not take place.” (July 12, 2022 email from Matej Boguszak, Exhibit 33, pg. 8.) Notably, the remedy for a lack of meet and confer would be further meet and confer, which was already taking place notwithstanding Ms. Hays’s grievance and without any intervention by ODR. (August 9, 2022 email from Matej Boguszak to Lee Lambert and Jeff Silvyn, attached as Exhibit 33.) Further, it is worth noting that none of those listed on the grievance contacted ODR to discuss or clarify the decision.

Also notable is that, per AP 1.25.01, the responsibility for convening a meet and confer team rests with AERC, of which Ms. Hays herself is a co-chair. (AP 1.25.01, Section 2.3, Exhibit 4.) AERC could have convened a meet and confer team and/or made formal recommendations regarding the Study on its own initiative at any time. Because two members of AERC (one of them Ms. Hays) were members of the Steering Committees, AERC had access to the same Study information. And, in fact, AERC did provide feedback on the Study and proposed approaches that influenced the outcome, as described above.

Finally, regardless of the disagreement over whether there had been a policy violation, the College’s administration recognized the importance of addressing the employee concerns shared by AERC and provided nearly all of the remedies that AERC requested. Since August, there have been three AERC meet and confer teams formed and convened for the following meetings: one to address faculty compensation concerns; one to address staff compensation concerns; and one to address larger process concerns. (See Exhibits 26, 27, and 28.) In addition, as part of clarifying the College’s complaint processes, ODR has requested input from AERC. (See Exhibit 42.) The allegation that the College does not listen to AERC or respect its role and disregards College policies related to employee input and concerns is unsubstantiated and contrary to the evidence.

### **There Is No Basis for the Claim of Retaliation**

The complaint also alleges retaliation against faculty members who have criticized the College. The three specific examples of alleged retaliation are 1) an email regarding a television news story, 2) interviews of faculty members to investigate the leak of an HLC draft report, and 3) the supposed refusal of ODR to consider the grievance discussed above. These allegations are without merit.

During 2022, the College was the subject of a focused visit review by HLC. While the HLC decision was pending, an unknown individual publicly leaked the focused visit team’s draft report. On August 29, 2022, a local television station ran stories about the leaked report and included quotes from Governing Board members Luis Gonzales and Maria Garcia, as well as from Makyla Hays. (KOLD reports, attached as Exhibit 34.) Because this story created the false impression that there was a substantial risk to the College’s accreditation status, which was highly concerning to the College community, the College issued a responsive email to all employees to provide much-needed context. (Pima-all 9-6-2022, attached as Exhibit 35; this is the same email as attached to Ms. Hays’ complaint.) This email questioned the appropriateness of leaking draft materials and drawing conclusions before the HLC process was finished, but it did not identify anyone by name. Rather, the email referred only to “several

community members.” At that time, and in the days that followed, as anticipated in the email, multiple individuals chose to rely on the leaked report as a means to criticize the College. (Media stories HLC draft report 9-2022, attached as Exhibit 36.) The email that is the subject of Ms. Hays’s complaint was not directed at her, did not mention her by name, and was sent to all employees (not just Ms. Hays, and not just to employees who had voiced criticism of the College). Moreover, Ms. Hays has not, and cannot, identify any adverse action that was taken against her.<sup>3</sup>

According to published HLC standards, peer reviewers are supposed to treat their work as confidential. Similarly, only a few individuals at the College had access to the focused visit report and were expected to treat it and the process as confidential until HLC issued a final decision. The leak of the draft focused visit report constituted a serious breach of confidentiality, and possibly a violation of HLC rules. Accordingly, the College conducted a review to determine the source of the leak, if possible. The College had received information about individuals who might have seen the report, Ms. Hays being one of them. Based on that information, outside legal counsel assisting the College with the HLC focused visit review process asked to interview these individuals to determine if they had information that might clarify the source of the leak, all of which is confirmed by the evidence submitted with the complaint. Ms. Hays was among those interviewed as a witness. Notably, she does not allege or offer any evidence to suggest that any adverse action was taken against her because she received or spoke about the leaked report. To this day, the College does not know the identity of the individual responsible for leaking the focused visit reviewers’ draft report or if that individual is associated with the College, with the HLC, or with some other organization.

Ms. Hays alleges that these actions silenced employees from expressing public criticism of the College. To the contrary, Ms. Hays has continued to speak critically of the Chancellor and the College at public meetings and in the media. (Hays examples of subsequent public comments, attached as Exhibit 38.) Her editorial backing a candidate for the Governing Board and criticism of the College was published in the main local newspaper. (Hays editorial, attached as Exhibit 39.) Moreover, Ms. Hays continues to send unsolicited email to all faculty with her critiques. (Hays email to faculty 10-20-2022 attached as Exhibit 40.) She does not allege, nor has she offered any evidence, of any adverse action taken in response to these critiques.

Despite Ms. Hays’s claims to speak for all faculty and staff, the available statistical evidence shows that her negative perceptions of the College’s administration do not align with those of the majority of College employees. Specifically, every two years, the College participates in a survey of employee satisfaction administered nationwide by an outside consulting firm. The most recent results, from Spring 2022, show that, overall, employees are satisfied with the work environment at the College and respond comparably to their peers at other colleges. More importantly, the College requested, and the consultant agreed, to add custom questions, based on input from College employee groups, including AERC. One of those custom questions was the following:

---

<sup>3</sup> The College’s words of caution about relying on a leaked report and an incomplete process proved to be prescient, as the HLC decision ultimately rejected nearly all findings and conclusions of the focused visit report due to lack of sufficient evidence. (Pima College Focused Visit Action Letter 10-06-2022, attached as Exhibit 37.)



*I feel I can bring concerns to my supervisors or administration without retaliation.*

In response to that item, the average rating for all employees was 3.73 and for faculty 3.71 on a 5 point scale in which a “3” connotes “somewhat satisfied” and a “4” connotes “satisfied.” These results were presented to the Governing Board at a public meeting on November 14, 2022. (CESS Slides for GB Nov 2022, attached as Exhibit 41, see pgs. 4-5, 9, 15, and 21.) The evidence shows there is not a statistically significant issue at the College with employees being concerned about retaliation, despite how Ms. Hays herself may feel.

The final allegation is equally without merit. ODR did not ignore or conceal a policy violation, and there is no evidence whatsoever to support such an allegation. As discussed in detail above, ODR fully assessed the grievance submitted by Ms. Hays, determined (appropriately) that it should be denied, and adequately explained the reasons for the denial. Regardless, both ODR and the College recognize that there may be opportunities to address the concerns expressed in the grievance document through further communication and clarification of College processes. The College has fully engaged with Ms. Hays and with AERC in continuing efforts to improve its internal processes. (Hays email Re\_ODR Complaint Process Draft, attached as Exhibit 42.)

### **The Complaint Is Not Supported by Evidence and Should Be Closed**

The complaint alleges that the College failed to follow its policies regarding employee input and that the subject matter of the complaint could not be addressed internally at the College, leaving the complainants with no option but to submit a complaint to HLC. As the evidence demonstrates, these allegations are not supported by the evidence. Consistent with College policy, employees, including AERC as a representative body, had significant opportunities to provide input for the Classification and Compensation Study over a nearly two-year period through dozens of meetings and that their input influenced both the Study outcome and its implementation at the College. (See Exhibits 11 through 25.) College policy does not make AERC the exclusive source of input on personnel related policies. Consistent with BP 1.25's recognition of the value of employee input, the College provided employees with multiple avenues for providing comments, questions, and concerns about the College's classification and compensation system and the process of the Study.

As expected for a process as complex and significant as developing a substantially revised class and compensation system, not every aspect of the process went entirely smoothly, and the new system is not perfect. The College recognized this and, accordingly, continues to engage with employees to revise the compensation system, as well as the processes related to making decisions about significant personnel systems and for resolving disagreements related to those decisions.

We trust that this information satisfies that PCC remains in full compliance with Criterion 2, Core Component 2A. However, if additional information or clarification would be useful for your review, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'Lee D. Lambert', with a long horizontal flourish extending to the right.

Lee D. Lambert  
Chancellor  
Pima Community College