



Institutional Response Form

Complete this form to indicate whether the institution does or does not concur with the recommendations from the peer review team or panel. Each HLC decision-making body considers the institutional response as part of the full record of the case. For more information about the decision-making process, see hlcommission.org/decision-making.

Written Response

The institution may choose to include an additional written response on page 2 of this form. If a written response is included, it should be in the form of a letter to the Institutional Actions Council and should not exceed five pages in length.

Submission Instructions

The institutional response is due within two weeks of the date listed below. Submit the completed form and, if applicable, written response as a PDF file at hlcommission.org/upload. Select “Institutional Responses” from the list of submission options to ensure the form is sent to the correct staff person.

Please note: If the form is not received within two weeks, HLC will conclude that the institution concurs with the recommendation of the peer review team or panel.

Date: June 24, 2022

Institution: Pima County Community College District **Institutional ID:** 1012

Evaluation Type: Monitoring-Focused Visit : A visit focused on reviewing core component 2.C (due by April 2022).

Chief Executive Officer: Dr. Lee Lambert

Phone: (520) 206-4747 **Email:** llambert@pima.edu

Select one of the following options:

- The institution concurs with the accreditation recommendations.
- The institution does not concur with the accreditation recommendations.

Is the institution providing a written response?

- Yes (*Please enter the response on page 2.*)
- No, the institution chooses not to submit a further response.

Chief Executive Officer's signature:



Written Response

Please enter the institution's response below. It should be written in the form of a letter to the Institutional Actions Council and should not exceed five pages in length.

Please see the accompanying response.

PIMA COMMUNITY COLLEGE'S RESPONSE AGREEING IN PART AND DISAGREEING IN PART WITH THE JUNE 23, 2022 FOCUSED VISIT REPORT'S RECOMMENDED MONITORING

July 8, 2022

I. INTRODUCTION

On June 24, 2022, Pima Community College (PCC) received the Higher Learning Commission (HLC) Peer Review Team's June 23, 2022 final report from its March 28-29, 2022 Focused Visit (Report) specifying one "Recommended Change" for "Monitoring," containing several subparts (see Report, p. 20; see also Institutional Status and Requirements Worksheet, p. 2).¹ PCC agrees in part and disagrees in part with the Report's recommendations. PCC's suggestions below seek to align future monitoring with two fundamental HLC principles: 1) recommendations and reported outcomes should be based on "thorough" and "compelling evidence" from "relevant and persuasive sources," and 2) HLC accreditation provides a framework of standards by which member institutions have the autonomy and responsibility to determine their own specific approaches to meeting those standards. For convenience, hyperlinks to the referenced sources are provided throughout this response.

II. RECOMMENDATION FOR MONITORING OF THE GOVERNING BOARD'S EFFECTIVENESS.

A. PCC Agrees that HLC Should Monitor the Board's Overall Effectiveness, Including Individual Members' Compliance with Applicable Laws and Professional Responsibilities. Based on Examples from the Documented Evidence, the Monitoring Should Focus on the Following:

- Board members' compliance with the Arizona Open Meetings Law (OML);
 - The Arizona Attorney General found conclusively in its [April 14, 2022 decision](#) that Board Members Garcia and Gonzales repeatedly violated the Arizona OML and breached their duties to maintain executive session confidentiality by unlawfully sharing information with C-FAIRR member Soaring Hawk (which is also contrary to [HLC's "guiding values" of "Maintaining Institutional Autonomy"](#));
- Board members meeting their fiduciary duties to the institution;
 - Board Members Garcia and Gonzales have violated their fiduciary duty to PCC by refusing to cooperate with legal counsel appointed by the College's liability carrier;
 - As documented in the [transcript from the Board's May 12, 2021 meeting](#), Board Members Garcia and Gonzales have asserted that they possess evidence or have knowledge of wrongdoing by College personnel but have failed or refused to disclose that evidence in violation of their fiduciary duty.

¹ As discussed in [PCC's June 20, 2022 "Errors of Fact" submission](#), the Report contains numerous highly prejudicial conclusions about PCC based on the unsupported statements of a few select individuals who the Reviewers chose to interview while failing to properly consider the substantial evidentiary documentation provided by PCC, including reports by neutral third-parties. PCC submits that these issues and others, all of which PCC will address fully through all available HLC procedures, illustrate that the Focused Visit Report does not meet [HLC's Standards of Conduct for Peer Reviewers \(PEER.A.10.040\)](#), or [Standards of Evidence for Accreditation Review](#) and, most importantly, did not address serious concerns about the misconduct of certain Governing Board members who have unquestionably engaged in multiple violations of state law as determined by the Arizona Attorney General, and who the documented evidence shows have refused to perform their official duties.

- Board members' compliance with [the Board's bylaws](#), reporting/sharing information appropriately, and respecting decisions of the Board and the decision-making process even when they may personally disagree;
 - Board Members Garcia and Gonzales have repeatedly refused to accept decisions made by the Board as a whole and [alleged misconduct and conflicts of interest by the Chancellor and other PCC personnel](#) despite multiple investigative conclusions to the contrary, including by the Board-appointed Finance and Audit Committee. Please see the following examples (and numerous others cited in PCC's previous "[Errors of Fact](#)" [submission](#)):
 - [June 9, 2021 PCC Governing Board Meeting Agenda](#), Item 9.4, "Finance and Audit Committee Report on Comprehensive Integrated Energy Management Program Vendor Selection Review" (previously submitted to HLC on Aug. 6, 2021 as Ex. 21 to PCC's Response to Ward Complaint);
 - [October 6, 2021 PCC Governing Board Meeting Minutes](#);
 - [AGB Report \(Feb. 25, 2022\)](#), pp. 2-4 (noting Board Members Garcia and Gonzales "declined to meet with the AGB team");
 - "[Report of the Investigation of the Procurement of an Energy Management Program and Recommendations](#)," by Susan Segal of Gust Rosenfeld (March 10, 2021) (discussing multiple complaints by Board Members Garcia and Gonzales about "Trane" project and finding no impropriety or violations of law).

B. PCC Disagrees that Clarification and Agreement about Delegation of Authority to the Chancellor is Necessary or Factually Justified, as the Issue Has Been Thoroughly and Independently Investigated and Resolved.

- The Report does not identify any factual basis for its recommendation that monitoring is needed on this issue, while the available evidence demonstrates that the Board's delegation of authority to the Chancellor has been independently evaluated and found to be well-established and appropriate:
 - In 2022, on the recommendation of HLC's President, PCC commissioned AGB to conduct [an independent assessment](#), which confirmed that PCC has "appropriate" and "effective" policies regarding the Board's delegation of authority to the Chancellor (see p. 8, par. 3).
 - In its [January 29, 2019 Mid-Cycle Review Report](#), the HLC itself found that PCC has appropriate policies in place regarding the Board's delegation of operational decisions to the Chancellor (see p. 29).

C. PCC Agrees that HLC Should Monitor the Effective Flow of Information between Board Members and the Chancellor. Based on the Evidence, Monitoring Should Focus on the Following:

- Whether Board Members regularly communicate and share their concerns with the Chancellor;
 - Board Members Garcia and Gonzales refuse to meet or discuss issues with the Chancellor (see, e.g., [Lewis Roca Memorandum \(March 14, 2022\)](#),

- noting Board Member Garcia stated she “does not understand why she needs to meet with [the Chancellor]” (p.4, par. 3));
- Board Member Garcia acknowledged that all Board members have equal access to communicating with the Chancellor (see [PCC Governing Board March 28, 2022 Meeting Minutes](#), p. 4, par. 2);
- Whether Board Members follow the complaint process required in the [Board’s bylaws](#) (see Article XII (p. 25));
 - Board Members Garcia and Gonzales assert complaints but refuse to disclose evidence they say supports those complaints (see, e.g., [Lewis Roca Memorandum](#), p. 9).

D. PCC Disagrees that the Board’s Bylaws Should Be Revised “to Ensure Equal Access to the Board Chair’s Role on a Rotational Basis[.]”

- This recommendation is contrary to Arizona law, which requires the Board to conduct an election for officers (see [ARS 15-1443](#)), and implementing it would effectively make HLC, rather than duly elected public officials, the arbiter of who serves as a PCC Governing Board officer;
- The Board’s bylaws have been [reviewed by the Arizona Attorney General’s Office](#) and found to be compliant with applicable state law;
- There is no evidence that the election of Board officers is done specifically to discriminate against any individual current Board members. In fact, holding elections for officers, rather than simply appointing them “on a “rotational basis,” [is in accordance with the Board’s bylaws](#) (see Section IV (p. 7)) and [has been the Board’s practice for many years](#), predating the 2019 tenure of Board Members Garcia and Gonzales, who have complained about this issue.
 - Notably, until 2022, the Board voted *unanimously* to elect the Chair and Vice Chair (*id.*, pp. 3-31). In 2022, Board Member Gonzales was nominated but not elected (*id.*, pp. 1-2). Board Member Garcia has not been nominated.

III. RECOMMENDATION FOR MONITORING OF THE GOVERNING BOARD’S OVERSIGHT OF EMPLOYMENT PROCESSES AND INSTITUTIONAL CLIMATE.

A. PCC Disagrees that HLC Monitoring of “Equitable Treatment of Women and People of Color” is Necessary or Factually Justified. PCC Supports Further Monitoring to Confirm that It Has and Follows Appropriate Policies and Procedures to Address Specific Employee Concerns.

- The Report cites none of the requisite “[compelling evidence](#)” to show that women or people of color are treated inequitably as PCC employees;
- Contrary to [HLC’s standards of conduct](#) – which mandate objectivity, impartiality, and professionalism – the Reviewers based this recommendation entirely on hearsay, conjecture, and a very small number of unsupported allegations/complaints, rather than on “compelling evidence” from “relevant and persuasive” sources [as required by HLC \(see p. 1\)](#). Likewise, the Reviewers did not “[s]ubstantiate the facts and arguments presented” in their Report when concluding that PCC *is not* compliant with HLC criteria, despite that being the

evidentiary standard HLC requires PCC to meet to show that it *is* compliant (see *id.*). Permitting such a discrepancy is fundamentally unfair to PCC.²

- Please see the following evidence demonstrating that the majority of women and people of color are not treated inequitably as PCC employees:
 - [PCC 2022 Statistics of Employees by Race, Ethnicity, and Gender](#);
 - [PCC's 2022 College Employee Satisfaction Survey](#) (finding, e.g., a mean response score of 3.76 out of 5 that PCC “fosters an environment that is inclusive of diverse identities”);
 - [PCC DEI Strategic Planning Update \(February 21, 2011\)](#) (e.g., pp. 11, 13-14); [PCC DEI Climate Survey 2021 \(Executive Summary\)](#);
 - [HLC Mid-cycle Report 2019](#), p. 19.
- During the Focused Visit, a very small number of individual PCC employees expressed their own complaints to the Reviewers. Although individual complaints are not conclusive evidence of the overall DEI climate, PCC takes all such concerns seriously and will follow up on them. PCC submits that it would be appropriate to update HLC on PCC's compliance with its applicable personnel policies and procedures.

B. PCC Agrees with that Periodic “Institutional Climate” Progress Reports Should Be Shared with the PCC Community but Disagrees that HLC Monitoring on this Issue is Necessary as Substantial Evidence Demonstrates that PCC Regularly Conducts and Shares Such Reports.

- PCC regularly conducts and shares the results of institutional climate surveys (see, e.g., [here](#) and [here](#)), including at multiple [Governing Board meetings](#); PCC agrees that continuing and expanding on this practice would be beneficial.
- PCC does not agree with the Report's unsupported conclusions about “institutional climate” issues at PCC, which are contradicted by [the available factual evidence](#) (see also [here](#), [here](#), and [here](#));
- PCC notes that no member of the executive leadership team (College administrators) has been removed or demoted involuntarily since 2014, with the exception of Bill Ward, who filed the complaint with HLC that precipitated the Focused Visit. Meanwhile, [the College has consistently had an extremely low number of involuntary employee separations and an annual overall retention rate in excess of 90% \(for 2022, that rate was over 97%\)](#). Both of these facts contradict the Reviewers' unsupported opinions and speculation about the institutional climate for PCC employees.

C. PCC Disagrees with the Recommendation to Implement Enhanced Metrics to Evaluate the Effectiveness of and Progress on DEI Initiatives Because PCC Currently Has Appropriate Measures in Place.

- PCC is [unwaveringly committed to DEI and undertakes various ongoing institutional DEI initiatives](#). PCC agrees that utilizing metrics to evaluate the

² Clearly, a hypothetical institution under review could not overcome significant statistical evidence showing widespread employee dissatisfaction simply by citing to the unsupported statements of three or four employees who think everything is great. Nonetheless, that is effectively what the Reviewers themselves have done here, only in reverse.

effectiveness of its DEI initiatives and to measure PCC's progress toward achieving its DEI goals is beneficial to the college and the community. As such, [PCC currently utilizes such metrics](#) (see also [here](#)) and regularly presents them, along with other DEI topics, [at various Board meetings](#).

- PCC disagrees with the Report's unsupported conclusions about DEI concerns, which are contradicted by the available evidence demonstrating both PCC's [current level of diversity](#) as well as its [ongoing DEI commitment, advancements, and successes](#), both in overall representation and in employee satisfaction (*cf.*, [here](#) and [here](#); see also [here](#) and [here](#)).

D. PCC Agrees with the Recommendation to More Clearly Define the Relationship between the Office of Dispute Resolution (ODR) and Human Resources (HR).³

- PCC agrees that further clarification of the respective roles of ODR and HR at the college, as well as the procedures for cooperative engagement between the two departments, would be beneficial.
- PCC submits that the Focused Visit Report incorrectly assumes that ODR is or should be part of HR (see [ODR's webpage](#)). In fact, PCC organized ODR as an independent department, separate from HR, in response to previous HLC concerns (see [here](#) (pp. 13-14) and [here](#) (p. 3)).

DI. PCC Agrees in Part and Disagrees in Part with the Recommendation to Implement “a Plan to Achieve Racial/Ethnic and Gender Diversity to Better Reflect the Student Body and Surrounding Community[.]”

- PCC agrees that monitoring should include re-assessment and re-evaluation of PCC's existing affirmative action and DEI policies/goals.
- PCC disagrees with the Report's recommended “plan to achieve” diversity “to better reflect” students and the “surrounding community”
 - [Recent results show](#) that DEI at PCC is already “[a]ligned with [the] demographics of Tucson” (see p. 3);
 - The recommended “plan” would be illegal. [See ARS 41-1463\(B\)\(2\)](#) (prohibiting employers from discriminating, denying opportunity to, or otherwise adversely affecting employment based on race, color, religion, age, sex, national origin, or disability).
- PCC agrees that it would be beneficial to regularly reaffirm the college's commitment to DEI, including expressing aspirational goals to expand recruitment efforts among underrepresented populations without setting any specific targets or quotas based on race, ethnicity, gender, or other legally protected status, which may violate state and/or federal law.
- PCC disagrees with Report's unsupported conclusion that there is a problem with the level of racial, ethnic, or gender diversity at PCC. Such a premise is contradicted by [the available demographic evidence](#), showing, *e.g.*, greater representation of both female and non-White persons employed at PCC than in the overall community (*cf.*, [U.S Census Bureau statistics for Tucson, AZ](#)).

³ This recommendation appears in the Report itself but does not appear on the Institutional Status and Requirements Worksheet. PCC addresses it here in the interest of completeness.