



## 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](http://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](http://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

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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.

The institution's written response consists of the document submitted September 9, 2022 by Georgia Staton and Ravi Patel with the firm Jones, Skelton & Hochuli.

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September 9, 2022

Institutional Actions Council  
c/o Dr. Linnea Stenson, Vice President of  
Accreditation Relations  
Higher Learning Commission  
230 South LaSalle Street, Suite 7-500  
Chicago, Illinois 60604-1411  
hlcommission.org

Re: Pima County Community College District  
Institutional Response

Dear Dr. Stenson:

On behalf of Pima County Community College District (“PCC” or “Pima College”), we submit PCC’s Institutional Response to the Higher Learning Commission (HLC) Peer Review Team’s June 23, 2022 final report from its March 28-29, 2022 Focused Visit (“Final Report”).

**I. THE FINAL REPORT RECOMMENDATIONS ARE NOT BASED ON EVIDENCE OR HLC CRITERIA**

On June 24, 2022 PCC received the Peer Review Team’s June 23, 2022 final report. The Final Report specifies one “Recommended Change” for “Monitoring,” containing several subparts (see Final Report at 20; see also Institutional Status and Requirements Worksheet, at 2). PCC agrees in part and disagrees in part with the Report’s recommendations. While PCC agrees that some monitoring may be warranted, the Final Report’s specific recommendations rest on unsupported complaints and anecdotal allegations, rather than

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documented evidence as required under HLC standards. (**Exhibit 2**, HLC Resource, “Providing Evidence for Accreditation”)

The Final Report also contains numerous highly prejudicial and inaccurate conclusions, based on the unsupported statements of a few individuals. The Reviewers did not give PCC an opportunity to respond to these allegations made during the Focused Visit, and did not consider any objective evidence before incorporating the accusations into their report. In addition, much of the Final Report describes matters outside of the Accreditation Criteria, such as individual personnel issues, and the perspectives of one outside political interest group on Board decisions. (Policy COMM.A.10.030; Standards of Conduct for Peer Reviewers, PEER.A.10.040; Core Component 2.C)

PCC proposes that the Institutional Actions Council modify the proposed monitoring so that the topics align with the evidence and accreditation standards, rather than unsupported allegations. Attached as **Exhibit 1** are PCC’s Proposed Findings of Fact and recommended areas for monitoring.

## **II. BACKGROUND/PROCEDURAL HISTORY**

The Final Report’s discussion of PCC’s organizational history focuses on matters that took place between 1989 and 2013, under prior administrations and different policies and procedures. The Final Report attempt to draw a comparison between the issues raised in the 2013 accreditation review fails to acknowledge that since Chancellor Lambert was appointed in mid-2013, PCC has made significant improvements to its policies and procedures, a fact which HLC has recognized multiple times since then.

In PCC’s Mid Cycle Review in 2019, HLC found that PCC’s “Board is autonomous and that it delegates day-to-day governing of the college to the chancellor.”



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The HLC review noted that the duties of the Board and Chancellor are codified in PCC's bylaws and that the Board is responsive to its duties and provided adequate training.

On July 7, 2021, PCC received notice from the HLC of a complaint. HLC concluded the complaint raised potential concerns regarding the institution's substantive compliance with Core Components 2.A, 2.C., and 5.A. The complaint contained proposed findings of fact and documents collected by a political advocacy group called C-FAIRR.<sup>1</sup> On August 6, 2021, PCC submitted its response to the complaint. On September 2, 2021, PCC was notified that HLC had received additional complaints which raised no new issues, and didn't require any further response. In light of PCC's response, HLC identified compliance with Core Component 2.C as the only remaining concern. HLC scheduled a Focused Visit for March 28-29, 2022, pursuant to HLC Policy INST.F.10.010 Routine Monitoring and Data Collection to evaluate whether the governing board of the institution is autonomous (1) **to make decisions in the best interest of the institution** in compliance with board policies and (2) **to ensure the institution's integrity**. (emphasis added)

On March 18, 2022, PCC was notified of additional complaints.

The Focused Visit was scheduled for 1 ½ days. Of this time, no more than 9 ½ hours were spent in substantive meetings. Of that time, more than 2 hours were spent on a specific employee's concerns. The Peer Review Team only met with the Executive Leadership Team as a whole to review procedural matters related to the visit. They scheduled meetings with five individuals, and met with the Governing Board in a public

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<sup>1</sup> C-FAIRR is a self-styled advocacy group with a long, well-documented history of animosity towards PCC's Governing Board and administration, including, Chancellor Lee Lambert whom they opposed being hired by PCC. Notably, C-FAIRR supplied or created much of the material submitted to the HLC as complaints against PCC. The Peer Reviewers accepted, without question or examination, C-FAIRR's complaints as "facts" and unfortunately incorporated them wholesale throughout the Final Report.

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meeting.<sup>2</sup> During one of the scheduled meetings with staff, the Peer Review Team abruptly decided to interview one of those individuals alone, and asked the remaining participants to leave. PCC was never given notice of any specific complaints raised in this interview. The reviewers did not request that PCC provide evidence to address any new issues that arose during the Focused Visit. As a result, the Reviewers conducted no meaningful review and gathered no evidence to support the allegations related to those issues. Yet, these new issues comprise much of the basis for the Final Report and resulting monitoring recommendations.

### **III. THE CRITERION AT ISSUE AND THE STANDARD OF EVIDENCE**

Criterion 2, Core Component 2.C addresses the independence of an institution's Governing Board. Specifically, this Criterion evaluates whether the governing board of the institution is autonomous in two areas: (a) to make decisions in the best interest of the institution in compliance with board policies and (b) to ensure the institution's integrity.

This assessment is made with the guidance of five subcomponents:

1. The governing board is trained and knowledgeable so that it makes informed decisions with respect to the institution's financial and academic policies and practices; the board meets its legal and fiduciary responsibilities.

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<sup>2</sup> The Final Report mischaracterizes the Peer Review Team's meeting with the Governing Board. The meeting was open to the public, as required by Arizona's Open Meetings Law, not in executive session. The agenda was posted. While the report questions the presence of members of PCC's leadership at the meeting, the Peer Review Team did not request a different procedure or format. Members of the public attended as well. Although PCC identified these errors, the Review Team failed to correct the errors in their Report.

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2. The governing board's deliberations reflect priorities to preserve and enhance the institution.
3. The governing board reviews the reasonable and relevant interests of the institution's internal and external constituencies during its decision-making deliberations.
4. The governing board preserves its independence from undue influence on the part of donors, elected officials, ownership interests or other external parties.
5. The governing board delegates day-to-day management of the institution to the institution's administration and expects the institution's faculty to oversee academic matters.

Due process and HLC standards require that accreditation decisions be based on reliable and credible evidence. HLC describes the types of evidence that are relevant to a determination under Core Component 2.C as:

- Board manual, policies and bylaws, including a conflict of interest policy.
- List and bios of board members.
- Documentation of the selection process for board members and for selection of chair, vice- chair, etc.
- Dates, agendas and minutes of board meetings for multiple years (and town hall or community meetings with the board).
- On-boarding and orientation process for new board members.
- Information about professional development and training for board members.
- Board approval of planning and budgeting documents.

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- Board selection, evaluation, and right to terminate president of institution.
- Board self-evaluation.

**(Exhibit 2, HLC Resource, “Providing Evidence for Accreditation”)**

While this list is not exhaustive, what is clear is that compliance with Core Component 2.C must be judged on objective evidence of the policies, training and operations of the institution’s Board. While witness interviews may clarify ambiguities in the documentation, they cannot be a substitute for reliable, documentary evidence. By endorsing, without investigating, the allegations in third party complaints and unverified verbal reports, the Peer Review team failed in its obligation to rely only on objective evidence. As a result, the Final Report findings, conclusions, and recommendations should be rejected.

## **IV. AREAS OF FOCUS**

The Final Report identifies four Areas of Focus reviewed during the March 28-29, 2022 focused visit:

- (1) Assess effectiveness of relationships among and between the Chancellor, the Board Chair, and the rest of the Board;
- (2) Review independence of outside legal counsel and engagement or lack thereof for Board members regarding Chancellor decisions;
- (3) Examine Board’s role overseeing College’s employment processes; and
- (4) Assess College’s adherence to policies and procedures related to contracting.

**(Exhibit 3, Final Report at 2).**

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The Final Report found that PCC was compliant with respect to Area of Focus (2), regarding the independence of outside legal counsel and found that there were appropriate policies regarding the role of the College's General Counsel with respect to the Chancellor and Board. The Final Report also found PCC compliant in Area of Focus (4), assessing the College's adherence to policies and procedures relating to contracting, including the role the Board plays in reviewing and approving contracts. Notably, the Final Report cited to documentary evidence to support the findings in these areas.

The Peer Review Team recommended monitoring regarding Area of Focus (1), assessing the effectiveness of relationships among and between the Chancellor, Board Chair and rest of Board, and Area of Focus (3) examining the Board's role overseeing the College's employment processes. PCC disputes the allegations endorsed by the Peer Review Team and requests that the IAC reject the allegations and findings in the Final Report related to these areas and modify the monitoring recommendations, as set forth below.

V. **THE FINAL REPORT'S FINDINGS AND RECOMMENDATIONS REGARDING THE GOVERNING BOARD'S EFFECTIVENESS CONTRADICT THE EVIDENCE AND IMPROPERLY DIRECT THE BOARD.**

The Final Report's findings and recommendations regarding Area of Focus 1, regarding the effectiveness of relationships among and between the Chancellor, the Board Chair, and the rest of Board elevate allegations over evidence. In addition, they run contrary to the in-depth review of PCC's compliance with Core Criteria 2.C performed just a few weeks earlier by the Association of Governing Boards of Universities and Colleges

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(“AGB”).<sup>3</sup> The AGB spent four days in an in person visit to College in mid-February 2022, compared to the day and a half spent by the HLC Review Team. While the AGB identified some areas of concern, they specifically found compliance in with Core Component 2.C.

PCC’s Governing Board is the final authority for the College. It is charged with determining the mission of the College and formulating College priorities, determining criteria for evaluating the success of the College in attaining Board-approved priorities, adopt bylaws, selecting a model of governance to meet the needs of the College and its community, and establishing limitations for and delegation of authority to the Chancellor, who acts as the College’s Chief Executive Officer, and acts as a liaison between the College and the public. (**Exhibit 4**, Board Policies, *Article I*). The Board has five members who serve six-year terms. Board members are elected officials selected by constituencies in the County’s electoral districts.

## **A. The Governing Board’s Overall Effectiveness.**

PCC has an active Governing Board. As noted in the Final Report, all Board members regularly attend meetings and study sessions and actively participate in deliberations. (**Exhibit 3**, Final Report at 12). The Board is active in civic affairs, racially diverse, and socio-economically mixed. Many Board decisions are made unanimously, but not all. (**Exhibit 5**, Minutes of March 28, 2022 Governing Board meeting, at 6 (“Board member Clinco ... did note that more than 95% of the Board votes are unanimous. The Board is split on only a handful of decisions.”)). As can be expected of any elected Board, PCC’s Board members do not always agree with each other as to what acts are in the best interests of the College and some decisions are made on a majority vote.

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<sup>3</sup> PCC, on the recommendation of the HLC President, commissioned the Association of Governing Boards of Universities and Colleges to conduct an independent assessment of PCC’s compliance with Criteria 2.C.

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## 1. Claims that two Board Members were “Disrespected”

The Final Report cites statements by two Board Members (Maria Garcia and Luis Gonzales) who “expressed frustration” at perceived disrespect received from other Board Members and PCC leadership. The report appears to endorse claims by these members that there was an intent to disenfranchise certain members of the community. There is no evidence that PCC’s Board or executive leadership has an intent to disenfranchise any community constituency.

Additionally, despite disagreements as to the direction of the College or the role of the Board, PCC denies that its Executive Leadership Team has a “we” vs. “them” attitude with respect to the Board members. PCC’s leadership acts professionally and in the best interest of the College. PCC’s executive leadership follows the direction of the Board as is appropriate for their role. The Final Report does not contain any specific examples of the alleged behavior that caused concerns. As a result, the conclusion must be rejected.

The Final Report fails to acknowledge documented factors that explain why Board Members might disagree with Board Members Garcia and Gonzales on certain issues. PCC provided conclusive evidence that Board Members Garcia and Gonzales have engaged in several improper acts, which impact how they are perceived by other Board Members. For example, on April 14, 2022, the Arizona Attorney General issued findings that Maria Garcia and Luis Gonzales had repeatedly violated Arizona’s Open Meeting Laws, and provided confidential Executive Session materials to C-FAIRR member Soaring Hawk. This conduct also violates the Board’s bylaws. (**Exhibit 4**, Governing Board Bylaws, *Article X – Code of Ethics*). C-FAIRR, a political advocacy group, was also one

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of the complainants to the HLC, and the author of the majority of the materials provided in connection with multiple complaints made to the HLC prior to the Focused Visit.

In addition, both Garcia and Gonzales have engaged in a practice of declining to accept decisions of the Board as a whole, as required by the Board's bylaws. (**Exhibit 4**, Bylaws, Article X; See **Exhibit 6**, AGB Report, at 2-4 (declining to participate in AGB review; **Exhibit 5**, March 28, 2019 Governing Board Meeting Minutes, noting that Garcia declined to participate in meetings with AGB because they did not vote to approve their review). As the AGB noted, when considering the allegations that Garcia and Gonzales were not included in decisions, "the minutes show they were included but simply disagreed with the findings. As one example, when there was a vote to offer a public ballot question to expand the college's spending authorization, all members supported it at the Board level and then the two members in question opposed the proposition publicly." (**Exhibit 6**, AGB Report at 6).

In addition, Garcia and Gonzales have continued to assert disproven allegations that the Chancellor and other PCC personnel engaged in misconduct and had conflicts of interest with regard to the procurement of Trane as a vendor for the Comprehensive Integrated Energy Management Program. (**Exhibits 31A-C**; Board meeting minutes) These allegations were investigated multiple times and disproven, by independent investigators and the Board appointed Finance and Audit Committee. (See **Exhibit 7**, June 9 2021 PCC Governing Board Meeting Agenda, *Item 9.4, "Finance and Audit Committee Report on Comprehensive Integrated Energy Management Program Vendor Section Review*, **Exhibit 8**, State Bar Letter Dismissing Bar Charge; **Exhibit 9**, March 30, 2021 Letter from the Attorney General's Office declining prosecution; **Exhibit 10**, February 18, 2021 email from Auditor General's Office finding no violation of state



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procurement law). Notably, the Peer Review Team, after meeting with representatives from “all segments of the process” also found no issues with PCCs contracting process, agreeing that PCC had a “well-established College purchasing process, including milestones for seeing and receiving BOG approvals.” (**Exhibit 3**, Focused Visit Report at 18). Nevertheless, although the Review Team themselves found allegations in this area unsubstantiated, with respect to other areas they relied heavily and inexplicably on the assertions of Board Members Garcia and Gonzales and the affiliated C-FAIRR members as reliable evidence.

Core Component 2.C requires that the Board Members act in the best interests of the institution. PCC agrees that monitoring in this area is appropriate based on the evidence that board members have violated the law and Board policies, and refuse to abide by decisions of the Board. Accordingly, monitoring should focus on board member compliance with the Board’s policies and obligations to the Board and the institution.

## **2. The Board Has Properly Delegated Authority to the Chancellor**

PCC’s Board delegates the day to day operations to the Chancellor and the Executive Leadership. The HLC’s 2019 Mid-Cycle Review Report considered PCC’s policies and found that they met the requirements of Core Component 2.C:

The duties of the Board and the chancellor are codified in the Board by-laws. The Board has done a 360 evaluation of the Chancellor, demonstrating that it is responsive to its duties.

(**Exhibit 11, January 29, 2019 Mid-Cycle Review Report**). AGB’s February 2022 analysis was the same -- that PCC has “appropriate” and “effective policies” in place regarding the Board’s delegation of operational decisions to the Chancellor.

This delegation is supported by the Board’s oversight of the Chancellor through regular study sessions. As the AGB report describes, at these sessions, Board

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members “receive information from the Chancellor and dive deeply into significant upcoming issues and developments which they will encounter in the months ahead. This regularly scheduled activity is intended to assure that every Board member has the opportunity to ask any and all questions that are important to them before making a decision in a formally called Board meeting.” (**Exhibit 6**, AGB Report at 6).

### **3. Board Members Have Equal Access to Information**

Despite the allegations of certain Board Members, all have equal access to information. During the Board’s meeting with the Peer Review Team, Board Member Maria Garcia acknowledged that she, and the other Board members, had equal access to communicate directly with the Chancellor. (**Exhibit 5**, Minutes of March 28, 2022 Governing Board Meeting, at 4). While she also complained about the practice of using the Chancellor’s office to facilitate Board members’ meeting with other administrators, consistent with their delegation of day-to-day operations to the Chancellor, she also acknowledged that she was allowed to meet with other administrators as needed. (Id.) During a March 14, 2022 meeting with an outside consultant hired by PCC as part of its review of its bylaws, Board Member Garcia stated that “she did not understand why she needs to meet with the [the Chancellor] alone unless she has something specifically she wants to talk to him about.” (**Exhibit 12**, March 14, 2022 Lewis Roca Memorandum)

### **4. The Board’s Chair Elections are Consistent with Arizona Law.**

The Final Report, based solely on a “concern” raised by two Board members that they were excluded from participating in Board leadership positions, proposed that the Board select its chair on a rotational basis. This recommendation exceeds the authority of the HLC and is not appropriate for several reasons. First, it was not supported by evidence that Board members are excluded from participating in leadership positions. While Board

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Member Gonzales was not selected to be Board Chair in the last election, Board Members Garcia and Gonzales continue to sit on Board's Advisory Committees. Garcia sits on the Board's Finance and Audit Committee. Gonzales sits on the Human Resources Advisory Committee. (**Exhibits 13-14**, Information from Pima.edu regarding the Board Committees). They are given the same opportunities to participate in Board decisions and board activities as the other Board members. Second, the Report ignored the evidence showing legitimate reasons why Gonzales and Garcia were not selected for officer roles – as noted above, both have been found in violation of state open meetings laws, breach of executive session confidentiality requirements, and have repeatedly failed to follow the bylaws.

Finally, the Report overstates the role of the Chairperson. For instance, the Board Chair does not “adjudicate” complaints against the Chancellor or Board Members. The Chair merely receives notice of such complaints. The Board as a whole determines how to address complaints against the Chancellor or Board Members. (See **Exhibit 4**, Governing Board Bylaws, Article XII, Section 3).

Moreover, automatically rotating the Chair position is contrary to Arizona law, which states that “a district board *shall organize by electing* a president and a secretary from among its members.” (**Exhibit 15**, A.R.S. §15-1443). The Arizona Attorney General's Office determined that having an election for two-year terms for board officers complies with applicable law. (**Exhibit 16**, Arizona Attorney General Opinion I21-005). The recommendation to change this process is not only contrary to Arizona law's requirement for an election, but exceeds the HLC's authority. The pertinent question, from an Accreditation standpoint is whether the Board's bylaws and practices are “in compliance with all applicable laws.” (See HLC's Assumed Practices, Section A (10)). PCC's

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practices are. Dictating to an elected board how to select its officers far exceeds the bounds of accreditation standards.

The IAC should reject this recommendation/monitoring requirement, as it is factually and legally unsupported.

**B. The Final Report improperly endorses unsupported allegations by an outside advocacy group, C-FAIRR.**

While not listed as an area for monitoring, the Final Report cites portions of C-FAIRR’s August 4, 2021 complaint as if it were fact. However, the Peer Review Team chose not to investigate whether the C-FAIRR complaint had a factual basis, and did not interview anyone from C-FAIRR, or make any effort to determine whether they were reliable sources of information or had particular expertise that would give their opinion weight or credibility. (See **Exhibit 3**, Final Report at 6). Nevertheless, the Peer Review Team improperly includes and endorses five “recommendations” from the C-FAIRR report solely on the basis that they were “shared with the College by a local advocacy group” and thus, “warrant serious consideration.” (See **Exhibit 3**, Final Report at 12). These recommendations range from establishing a “Citizen Advisory Council” to “engag[ing] in a major and thorough review of all policies pertaining to delegation of authority to the Chancellor.” (Id.).

The Final Report contains no explanation, beyond citing “frustrations” by two board members, for making these recommendations. Notably, PCC’s current policies and procedures were approved by the HLC only two years prior. (See **Exhibit 11**, January 29, 2019 Mid-Cycle Report.) The incorporation of these recommendations, from a political group, without substantial evidentiary support is contrary to Core Component 2.C(4),

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which requires that the institution remain independent and autonomous from outside interest groups, as should HLC.

The IAC should reject the Final Report's endorsement of these recommendations.

## **C. Effectiveness of PCC's Board**

Despite certain disagreements among the Board Members, the College continues to operate successfully. The AGB reviewers found that that Pima College is thriving, working with external groups such as donors, the unions, and business groups, and gaining strong community support for its Centers of Excellence approach. (**Exhibit 6**, AGB Report at 6, 8). Donations and other development activity have increased significantly in recent years and support in the business and broader community support is strong. For example, the ballot proposal to increase PCC's funding cap was recently endorsed by a resounding majority of the voters of Pima County. (Id. at 7).

## **D. Proposed Monitoring**

PCC's suggestions below seek to align the HLC's future monitoring of the College 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.

PCC acknowledges that Monitoring may be appropriate in two areas:

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- (1) The Board's Overall Effectiveness as it relates to Board Members' compliance with the Board's bylaws, the Arizona Open Meeting Law, and their fiduciary duties and professional responsibilities.

As stated above, there remain ongoing concerns regarding whether Board members are fully complying with the Board's bylaws and the Board members' professional and fiduciary duties. These concerns may be undermining trust among Board members and hinder the effectiveness of communications and interactions among Board members. Monitoring would maintain focus on these concerns so that the Board may fully address them and improve effectiveness.

- (2) The Effective Flow of Information between Board Members and the Chancellor.

This includes whether Board Members regularly communicate concerns to the Chancellor, whether they report complaints in compliance with Article XII of the Board's Bylaws, and whether they communicate with the Chancellor on substantive matters that inform the decisions of the Board. Monitoring would promote continuing efforts to improve in these areas as well.

The IAC should reject the recommendations in the Final Report to require the Board to revise its Bylaws to ensure access to the Board Chair Role on a Rotational Basis. As noted above, such a requirement would violate Arizona law. In addition, how the Board conducts its operations in a manner that complies with HLC accreditation criteria is a decision solely for the Board; the specific steps to take are not within the purview of the Review Team to dictate.

The IAC should also reject the proposed monitoring about clarification and agreement about delegation of authority to the Chancellor. HLC has already found that PCC's existing policies comply with the accreditation standards. In addition, the only issue raised regarding delegation of authority to the Chancellor was in relation to the

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procurement process for the Comprehensive Integrated Energy Management Plan. The Final Report is clear that this process is suitable and was followed appropriately. There is no reason for further monitoring on this issue.

## **VI. EMPLOYMENT ISSUES**

PCC has a robust human resources department including the Assistant Vice Chancellor for Human Resources, and a staff of 22 employees, who manage the Human Resources needs of the College and its approximately 2,000 employees.<sup>4</sup> In addition, PCC's Office of Dispute Resolution performs HR-related investigations.

The Final Report identifies a generalized complaint and three discrete employee-specific personnel matters. Each of these addressed individual personnel issues, which were not properly the subject of the complaint process. Per HLC policy, "In no case will HLC complaint process be used to obtain an individual remedy with an institution on behalf of a complainant." (See COMM.A.10.030)

The Peer Review Team based its monitoring recommendation on a March 10, 2022 complaint, a complaint that was made during the Focused Visit as well as anecdotal "comments" which it characterized as "representative of discontent shared with the team on the visit". However, while the Final Report grudgingly acknowledged having heard "a number of positive comments about progress the governing board and senior administration had made" since HLC's 2013 Fact Finding Visit, it did not list them or provide any detail. Instead, it placed undue weight on a handful of anecdotal comments and individual complaints. The individual complaints and the anecdotal comments do not

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<sup>4</sup> The Final Report incorrectly states there are 2 employees in HR. This is one of many obvious factual errors that was identified for the Review Team. Nevertheless, they refused to correct any.

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demonstrate “substantive non-compliance” with the accreditation standards, are outside of the scope of Core Component 2.C, which addresses the effectiveness of the Governing Board, and are not a sufficient basis to support the recommended monitoring. Accreditation reports must be based on documented evidence. (See e.g. **Exhibit 2**, *Providing Evidence for the Criteria for Accreditation*.)

**A. Comments regarding Chancellor’s influence over the Board.**

The Final Report states that “comments were made that the Chancellor has undue influence over the Board and there is a noted lack of transparency.” (**Exhibit 3**, Final Report at 17). It is unclear why the Report cites this comment as “evidence.” The Report does not provide a single example regarding this claim. The Report does not indicate that any investigation was done into this allegation, and it does not appear to use this allegation as a basis for any monitoring recommendation.

Moreover, this allegation is contrary to substantial evidence. The AGB Report described the ongoing dialog between the Chancellor, the Faculty Senate and the creation of the All College Council to improve communication across internal constituencies. (**Exhibit 3**, Final Report at 12; **Exhibit 6**, AGB Report at 7). The AGB also reports that the Board actively assesses the Chancellor’s progress across specific Board-identified metrics. (**Exhibit 6**, AGB Report at 6-7). This is consistent with HLC’s findings in its January 2019 Mid Cycle Review. (**Exhibit 11**).

The IAC should reject this comment as unsupported and unrelated to any proposed monitoring area and should further reject any finding that the Chancellor has “undue influence over the Board” or that there is any “lack of transparency at PCC.”



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**B. The Peer Review Team improperly endorsed a single employee's allegation that there was "a culture of fear and intimidation."**

The Final Report describes an occasion when during a scheduled meeting regarding contracting issues, the Peer Review Team deviated from standard practice, by separately interviewing a single PCC employee who was present. The Final Report indicates that this employee made allegations that there was "a culture of fear and intimidation" at PCC. The Peer Review Team did not evaluate PCC's policies or practices regarding retaliation and, instead, simply adopted the unsubstantiated personal feelings of one employee (out of thousands) as evidence about the workplace culture at PCC. Talking to employees of any large employer will undoubtedly reveal at least one employee who is unhappy with their employer, or has criticisms of workplace culture. A single unsubstantiated report does not implicate Core Component 2.C., and is not sufficient to justify monitoring, particularly when the Review Team did not request that PCC provide any evidence to address the concern.

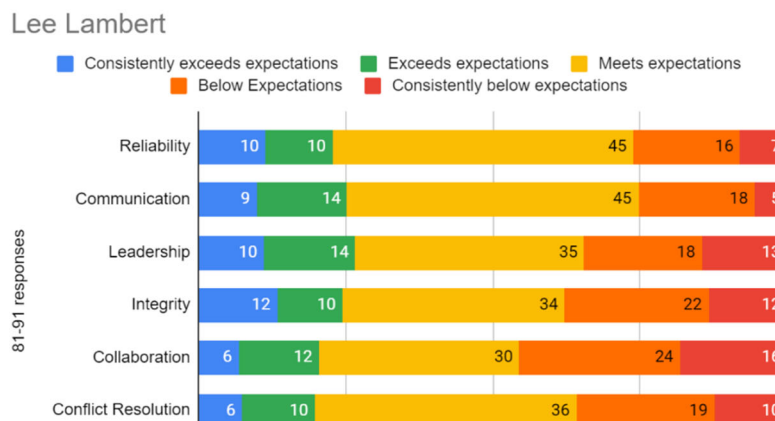
While the Peer Review Team accepted this allegation as fact, apparently on blind faith, this allegation is rebutted by multiple employee satisfaction surveys which show that the majority of PCC's employees do not share these concerns. Notably, the issue raised by this employee was merely her distribution of the C-FAIRR's debunked allegations to the PCC's internal auditor, who conducted a review and also found the allegations untrue. As previously discussed, C-FAIRR's report, which was also submitted to HLC as a complaint, has been repeatedly debunked. (**Exhibits 9-10, 17**). The employee declined to provide any additional information. (**Exhibit 18**, Correspondence between Joyce Jaden and PCC's Internal Auditor). In fact, Pima has robust internal controls in place regarding their procurement and contracts. (**Exhibit 3**, Final Report at 17-18; **Exhibit 19**, Clifton Larson Internal Control Review).

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Specifically, the results of the 2022 College Employee Satisfaction Survey indicate that over 50% of employee statements in the “campus culture and policies” section have seen a statistically significant increase in employee satisfaction. Additionally, more than 60% of employees responded that they were “very satisfied,” “satisfied,” or “somewhat satisfied” that PCC “does a good job of meeting the needs of its [faculty, staff, and administrators],” that “[t]here is a spirit of teamwork and cooperation at [PCC,]” that PCC “involves its employees in planning for the future[,]” and that “[e]fforts to improve the complaints and grievance procedures are paying off at [PCC.]” (**Exhibit 20**, 2022 College Employee Satisfaction Survey). The college has an overall employee retention rate in excess of 90% (for 2022, that rate was over 97%). (**Exhibit 21**, Report regarding PCC’s Employee Retention)

These results are consistent with a recent survey conducted by the Pima Community College Education Association (PCCEA). PCCEA is an employee representative organization of PCC faculty affiliated with a state-wide teacher advocacy organization. The PCCEA survey was not conducted by PCC, nor were its methodology or results verified by the college. Nonetheless, as shown in Figure 1, below the reported



*Figure 1* - PCCEA Faculty Evaluation of Chancellor Lambert

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results indicate consistently high levels of respect for and confidence in PCC's executive administrators, with nearly 60% of faculty responding that the Chancellor's leadership "meets," "exceeds," or "consistently exceeds" their expectations, and over 70% of faculty expressed the same sentiments about the Provost. Likewise, at least 50% and, in some instances, over 80% of survey respondents stated that the Chancellor and/or the Provost met, exceeded, or consistently exceeded their expectations in areas crucial to climate and culture, including "Reliability," "Communication," "Integrity," and "Conflict Resolution." (**Exhibit 22**, Excerpt from "PCCEA's Faculty Evaluation of Administration -- Spring 2021").

Most recently, Forbes released the results of its annual survey of workplaces, based on anonymous surveys of employees. (**Exhibit 32**). Pima College ranked as the fifth best workplace in the State of Arizona. PCC administration had no role in preparing or conducting this survey.

The consistent favorable results of these surveys shows that PCC had appropriate measures in place to monitor and report on issues of workplace culture. While some employees may be dissatisfied, the evidence also demonstrates that the majority of PCC employees are satisfied and that there are no widespread workplace environment issues.

The IAC should reject these unsubstantiated allegations. And, in the interest of correcting the public record in this matter, the IAC should publish findings about PCC's employment culture based on the empirical research provided to the HLC.

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C. **The March 10, 2022 Complaint by a Former employee is an individual personnel matter and not subject to HLC review.**

The Final Report refers to a March 10, 2022 report of a complaint from two years ago, about a dispute over salary. This sort of Human Resources issue is not appropriate for accreditation review. HLC generally does not involve itself in individual employment matters. (See COMM.A.10.030) HLC typically does not review two-year-old complaints. (Id. (“HLC will not generally review complaints that concern facts or circumstances that took place more than two years from the date the complaint was received by HLC”)). Finally, this topic has nothing to do with Board governance and the elements of Core Component 2.C, making it inappropriate to include in the Final Report.

Substantively, the claim was reviewed by the Board Chair and referred to outside counsel for investigation. While the complainant was not happy with the conclusions and recommendation of the College’s outside counsel, this is not an appropriate area for accreditation review or basis for monitoring. (**Exhibits 23-24**, Correspondence between Raj Murthy and PCC’s outside counsel, and Board Member Ripley regarding his employment dispute)

The IAC should reject these allegations as unsupported by the evidence and outside the proper scope of an accreditation review.

D. **PCC Fosters a Culture of Inclusion**

The Final Report improperly includes a collection of unsubstantiated allegations about a “senior PCC official.” The Final Report refers to “multiple”<sup>5</sup> senior PCC officials who complained about another official. The Report reports allegations that the official “embarked in a culture of fear, shame and bullying” and cites a PCC officer as

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<sup>5</sup> The use of “multiple” is misleading. Based on the meetings conducted by the Peer Review team, this allegation relates to assertions made by three or fewer employees.

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witnessing a lack of respect in the treatment of women or people of color. This appears to be a human resources matter, and not an accreditation issue. It certainly does not relate to the Board's functioning and autonomy under Core Component 2.C. Additionally, the Report identifies no evidence substantiating these allegations. There is no indication that the Peer Review Team interviewed the individual alleged to have acted improperly, and the Report does not refer to any documentary evidence.

As stated above, multiple surveys of PCC employees indicate that the College does not have a culture of fear, bullying and intimidation, and its employees are broadly satisfied with the work environment and culture the College.

Moreover, the Report contains a highly inflammatory claim that PCC has a "toxic environment" that resulted from the resignation of top-level administrators of color and a transgendered employee, and a "Bro culture." The Peer Review Team made no effort to verify this claim. While the Report does not identify which employees were identified to the Peer Review Team, the only PCC administrators who met the description and departed recently all left PCC to pursue high level positions elsewhere. In December 2021, Dr. Bruce Moses, PCC's Vice Chancellor for Educational Services and Institutional Integrity, announced that he would be leaving PCC to become the President of Allen Community College in Kansas. In February 2022, Dr. Lamata Mitchell, PCC's Vice Provost for Academic Affairs and Student Learning, left PCC to accept the position of Vice President and Chief Learning Officer with AdventHealth, a multi-state healthcare system. Additionally, Isaac Abbs (a person of color) recently returned to PCC to serve as Assistant Vice Chancellor for Information Technology and Chief Information Officer, a top-level administrative position and member of PCC's Executive Leadership Team. Mr. Abbs had previously served as PCC's Director of Enterprise Systems from 2010 to 2019 before

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leaving the College to accept a position as Technology Services Director for the Town of Marana, Arizona. (**Exhibit 25**) In addition, around the same time, two Hispanic women of color were promoted to upper level administrator positions. Dr. Irene Robles-Lopez was promoted to Vice Chancellor for Student Experience and Dr. Suzanne Desjardin was promoted to Vice President of Student Affairs. If the Review Team had provided the College an opportunity to address this item, the Team would have found substantial, documented evidence showing the allegations were unfounded.

Notably, PCC's Executive Leadership Team (ELT) is diverse. Of the 14 members of the Executive Leadership Team, six, including the Chancellor and the Provost are persons of color. The Executive Leadership Team members also represent LGBTQ+, disabled, and veteran communities. The PCC five-member Governing Board is equally diverse. Its members represent the Asian, Hispanic, Native American, Military-Veteran, and LGBTQ+ communities.

PCC cannot and does not consider race in individual hiring decisions. Employment practices that discriminate on the basis of race or ethnicity are illegal, regardless of the "expressed dissatisfaction" of "a number of constituents" or the "composition" of the student body or the community (see, e.g., A.R.S. §41-1463(B)(2) (stating, "It is an unlawful employment practice for an employer . . . [t]o limit, segregate or classify employees or applicants for employment in any way that would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect the individual's status as an employee, because of the individual's race, color, . . . or national origin")). However, PCC endeavors continuously to be more diverse and welcoming to everyone. Its faculty is diverse and has greater representation of female and non-white

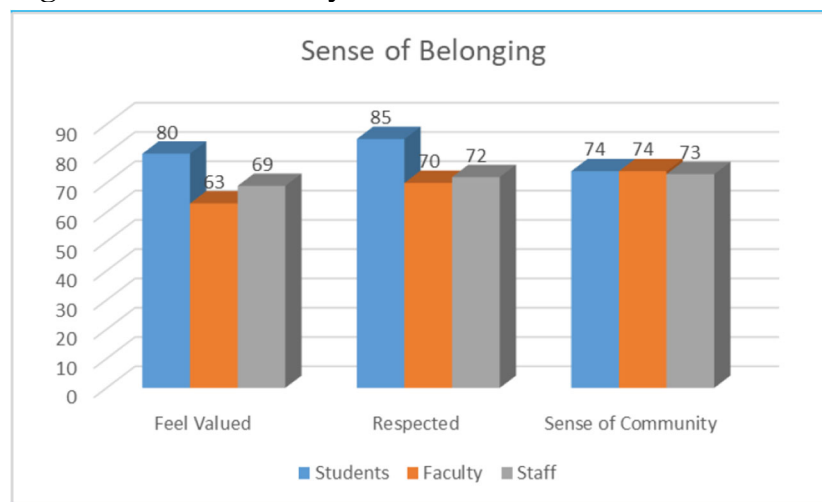
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employees than the Tucson, Arizona area that PCC serves. (See **Exhibit 26**, PCC demographics; See **Exhibit 27**, Census Bureau Statistics).

Surveys of PCC’s faculty and staff show that a majority of PCC employees feel valued, respected and have a sense of community. (See **Exhibit 28**, “Diversity, Equity, & Inclusion: DEI Strategic Planning Update and Overview of Climate Assessment” from February 21, 20122 Governing Board Study Session).

*Figure 2 -- DEI Survey Results.*



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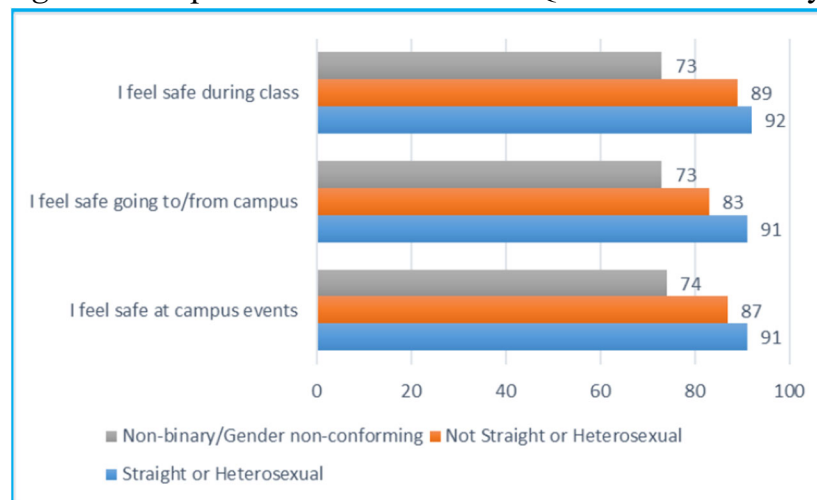
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Surveys of the PCC LGBTQIA2S+ Community also show that the vast majority of community members feel safe on campus and in participating in campus events. (See Figure 3, below).

*Figure 3 - Experiences of PCC LGBTQIA2S+ Community*



## **E. Proposed Monitoring.**

The monitoring proposed in the Final Report regarding PCC's employment processes demonstrates that the Peer Review Team did not evaluate PCC's existing practices and policies in making its recommendation. Moreover, the Final Report does not identify how any of the allegations that the Peer Review Team reported violated Core Component 2.C.

Nevertheless, in light of the serious allegations raised and PCC's commitment to fostering confidence in its HR processes, PCC proposes that it update HLC on PCC's compliance with its applicable personnel policies and procedures with respect to the individual personnel issues presented to the Peer Review Team.



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On the other hand, **PCC disagrees with the recommendation that HLC monitor “Equitable Treatment of Women and People of Color”**. This recommendation is beyond the scope of Core Component 2.C, and is not supported by evidence that PCC is in substantial non-compliance with the Accreditation Criteria. There is no evidence to show that women or people of color are being treated inequitably at PCC, or that PCC’s anti-discrimination policies are ineffective. In fact, the data show exactly the opposite. The IAC should reject this finding as unsupported by the evidence and reject any proposed monitoring related to this topic.

In addition, the Final Report fails to provide any justification for implementing “Enhanced Metrics” to evaluate the Effectiveness and Progress on DEI initiatives. There is no need for PCC to track additional metrics. Notably, the Report does not identify any additional metrics which are not already being tracked. As shown above, PCC already collects robust metrics on the effectiveness of its DEI initiatives, and reports them in public meetings. (See **Exhibits 26-28**, cited above). The IAC should reject the proposal to require additional metrics.

Similarly, PCC already shares periodic “Institutional Climate” Progress reports with the community. PCC’s climate surveys are shared at public Governing Board meetings and on its website. However, there is no justification for monitoring on this topic, as there is no evidence that PCC’s existing practices are inconsistent. Moreover, this item is beyond the scope of Core Component 2.C.

Although PCC’s employee demographics show that it appropriately reflects the community it serves, **PCC is amenable to monitoring regarding its existing affirmative action and DEI policies and goals**, as a means to reaffirm the College’s continuing commitment to DEI, and to reaffirming the aspirational goal to expand

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recruitment efforts among underrepresented populations. **The recommendation that PCC implement a “plan to achieve diversity” in hiring, particularly by setting targets or quotas based on race, gender or ethnicity would violate state law**, and is neither legally permissible, nor appropriate in this case given the success of PCC’s existing ongoing efforts. The IAC should reject this monitoring proposal.

Finally, PCC is amenable to clarifying the roles of the Human Resources Department and the separate Office of Dispute Resolution. 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. However, PCC notes that the Focused Visit Report incorrectly assumes that ODR is or should be part of HR. It is not. In fact, PCC organized ODR as an independent department separate from HR in response to previous HLC concerns as recognized in HLC’s 2014 and 2015 evaluations. **(Exhibits 29-30)** The IAC should reject the Final Report’s recommendation that contradicts prior HLC findings and would undo PCC’s efforts to resolve those findings.

## **VII. PCC IS AMENABLE TO PARTICIPATING IN A HEARING IF IAC DETERMINES ONE WOULD BE APPROPRIATE AND BENEFICIAL**

HLC Policy INST.D.40.010 provides that the “HCL may, in its discretion, determine when to use the Institutional Actions Council Meeting Committee and Institutional Actions Council Hearing Committee as appropriate under the circumstances.” Given the lengthy factual record and the complex procedural issues presented, PCC submits that a discretionary hearing before the IAC, may assist the IAC in fully evaluating the evidentiary record in this matter. PCC is amenable to participating in such a hearing if the IAC determines that one would be appropriate and beneficial.

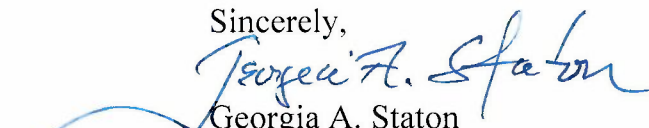
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## VIII. CONCLUSION

As explained above, the Peer Review Team's Final Report endorses unproven and unsupported allegations as the basis for its recommendations. Many of the issues raised in the final report are unrelated to the requirements of Core Component 2.C. The Peer Review Team did not provide PCC an opportunity to respond to the allegations, and it made its recommendations without reviewing the evidence. As a result, its Monitoring recommendations are excessive and not supported by the evidence. Unfortunately, the Team's decision to endorse the inflammatory and unsupported allegations without reviewing the facts has already damaged PCC's standing in the community, as local news have obtained a copy of the Team's Draft Report, and begun reporting on it. PCC requests that the IAC review the evidence closely and make findings that reflect the evidence. In addition, to confirm that HLC accreditation reviews must be based on evidence, to clarify the proper scope of an accreditation review, and to remove the appearance that HLC has endorsed allegations and findings with no basis in evidence, it is imperative that HLC specifically reject those portions of the Final Report that are not based on evidence or within the proper scope of review. To this end, PCC requests that the IAC adopt the proposed findings and appropriate monitoring, along the lines described in this letter, attached as **Exhibit 1** hereto.

Sincerely,



Georgia A. Staton  
Ravi Patel  
For the Firm

# **EXHIBIT 1**

## **Pima Community College District Proposed Findings and Recommended Monitoring**

Based on its independent review of the evidence, the IAC declines to adopt the Focused Visit Report's conclusions and recommendations regarding governing board operations and personnel matters as they are not supported by the evidence or within the proper scope of an accreditation compliance assessment. Instead, the IAC finds as follows:

The IAC accepts as warranted the Focused Visit Report's Recommendation that the HLC monitor PCC to assure compliance with Core Component 2.C, and acknowledge that the PCC Governing Board is autonomous to make decisions in the best interest of the institution in compliance with Board policies and to ensure the institution's integrity, but modifies the scope of the monitoring which shall address the following:

The HLC will require PCC to provide a single report under Core Component 2.C on following topics due at its next Comprehensive Evaluation Visit.

1. The Governing Board's Effectiveness with regard to:
  - (1) The Board's Overall Effectiveness as it relates to Board Members' compliance with the Board's bylaws, the Arizona Open Meeting Law, and their fiduciary duties and professional responsibilities.
  - (2) The Effective Flow of Information between Board Members and the Chancellor, including whether Board Members regularly communicate concerns to the Chancellor, and whether they report complaints about conduct in compliance with Article XII of the Board's Bylaws.
2. The Governing Board's Oversight of Employment Processes and Institutional Climate:
  - (1) An assessment of PCC's existing affirmative action and DEI policies/goals
  - (2) PCC's plans or goals with regard to recruiting from underrepresented populations
3. Clarification of policies defining the relationship between the Office of Dispute Resolution (ODR) and Human Resources.

HLC also recommends, but does not require, that PCC provide an update to HLC on PCC's compliance with its applicable personnel policies and procedures with respect to the individual personnel complaints.

Furthermore, based on its review of the full evidentiary record, the IAC explicitly finds that there is no factual basis upon which to conclude that there exists at PCC any systemic discrimination against or mistreatment of anyone based on gender, race, ethnicity, or other protected categories. Accordingly, the IAC explicitly rejects any such conclusions, inferences, or allegations contained in the Focused Visit Report.

# **EXHIBIT 2**



# PROVIDING EVIDENCE FOR THE CRITERIA FOR ACCREDITATION

Updated for Revised Criteria for Accreditation, Effective September 1, 2020

An institution has to provide a narrative and supporting evidence that demonstrate it meets HLC's Criteria for Accreditation. A team of peer reviewers evaluates the institution to validate its argument and determine if each Core Component of the Criteria is met. HLC provides suggestions to assist institutions in thinking about possible sources of evidence. This document should not be viewed by institutions or peer reviewers as an exhaustive list or be used as a checklist when preparing institutional materials or conducting a review.

## IDENTIFYING EVIDENCE

The evidence an institution provides to demonstrate that it complies with HLC's Criteria should do the following:

- Substantiate the facts and arguments presented in its institutional narrative.
- Respond to the prior peer review team's concerns and recommendations.
- Explain any nuances specific to the institution.
- Strengthen the institution's overall record of compliance with HLC's requirements.
- Affirm the institution's overall academic quality and financial sustainability and integrity.

HLC encourages institutions to provide thorough evidence and ensure that the sources it selects are relevant and persuasive. To identify compelling evidence, it may be helpful to consider the three categories of evidence presented in Black's Law: clear, corroborating and circumstantial.

- **Clear evidence** is precise, explicit and tends to directly establish the point it is presented to

support. Institutions should provide clear evidence of their compliance with each Core Component.

Example: Clear evidence that a president was duly appointed by an institution's board would be a board resolution or meeting minutes showing a motion and vote to hire the president.

- **Corroborating evidence** is supplementary to evidence already given and tends to strengthen or confirm it. This type of evidence can be useful in illustrating points made in the institution's narrative, but it may not be persuasive to peer reviewers on its own.

Example: Corroborating evidence that a president was duly appointed by an institution's board would be a copy of the offer letter addressed to the president.

- **Circumstantial evidence** establishes a condition of surrounding circumstances, from which the principal fact may be inferred. This type of evidence is never sufficient on its own.

Example: Circumstantial evidence that a president was duly appointed by an institution's board would be a copy of a letter from the president to

the chair of the board, accepting the presidential appointment.

Finally, institutions should remember the peer review team will base much of its recommendations on the evidence presented. In order to identify whether any gaps exist in the institution's evidence, it is recommended institutions analyze each Core Component from the perspective of the peer review team. Peer reviewers will consider all materials presented and ask questions if they determine information is missing, but it is ultimately the institution's responsibility to present evidence of their compliance with the Criteria.

## POSSIBLE SOURCES OF EVIDENCE

The following are examples of the types of information institutions may present in addressing the Core Components. This list was developed based on input from institutions and peer reviewers.

**Important:** Please note that the sources are not exhaustive, and institutions may provide different information relevant to their specific context and mission. The examples will not be applicable to all institutions. Further, institutions are not required to use these examples, and peer reviewers should defer to institutional preference instead of requiring the sources listed. This document is not intended to serve as a checklist.

### CRITERION 1. MISSION

The institution's mission is clear and articulated publicly; it guides the institution's operations.

**1A.** The institution's mission is articulated publicly and operationalized throughout the institution.

#### Examples

- Documentation of the history, development and adoption of the institution's mission statement.
- Documentation that the mission statement is regularly reviewed by the administration and reviewed and approved by the governing board.
- Documentation that academic programs, student support services and planning and budgeting priorities align with the mission (e.g., documents with budget allocations to instruction, student services, etc.).

- Enrollment profile.
- Information about new student, employee, and board member orientation that imparts the mission.
- Information about where the mission statement, purpose, vision, values, plans and goals are located and their accessibility to staff, faculty, students and the general public.
- Documentation of the policies and actions implemented or discontinued to achieve clearer alignment between an institution's practices and its mission.
- Recruitment materials.

**1.B.** The institution's mission demonstrates commitment to the public good.

#### Examples

- The institution's mission documents, if they specifically address the institution's role in the community.
- List of efforts, programs and certificates that meet community or constituent needs.
- Information about the institution's sustainability program.
- A list of partnerships and consulting arrangements with local businesses.
- Documentation of public events and series the community is able to attend.
- Documentation of the utilization of campus facilities by the community.
- Engagement of faculty, staff, and students in the community (i.e., community service, service-learning, etc.).

**1.C.** The institution provides opportunities for civic engagement in a diverse, multicultural society and globally-connected world, as appropriate within its mission and for the constituencies it serves.

#### Examples

- Documentation of course-based activities that promote civic engagement, including alternative spring break experiences, capstone experiences, community service projects, international service projects, professional or clinical practicum,



community-based student employment, organized mission- or faith-based services in the community, military service or entrepreneurship.

- Documentation of student or residential-life-based service or experiences, such as service clubs, fraternity or sorority service projects, athletic team service activities, resident advisor employment or residential life service projects, or institution-led volunteer experiences.
- Documentation of extramural and independent volunteer or community service activities, including arts- and culture-based activities, children/youth-based service, human rights service or advocacy, public health and public policy-based activities, environmental and sustainability activities, food security/hunger-relief volunteering, church-based community service, or political campaign volunteering.
- Documentation of how diversity and inclusion are addressed in the institution's mission documents and strategic plan.
- Student demographics and enrollment strategies that demonstrate a focus on diversity and inclusion.
- List of on-campus centers, offices and committees that address societal diversity, inclusion, and/or global awareness.
- List of student organizations that support societal diversity, inclusion, and/or global awareness.
- Listing of activities that the institution hosts or participates in that emphasize diversity, inclusion, and/or global awareness.

## **CRITERION 2. INTEGRITY: ETHICAL AND RESPONSIBLE CONDUCT**

The institution acts with integrity; its conduct is ethical and responsible.

**2.A.** The institution establishes and follows policies and processes to ensure fair and ethical behavior on the part of its governing board, administration, faculty and staff.

### **Examples**

- Hiring qualifications and processes for faculty and staff, including a search committee procedure or handbook.
- External (independent) and internal audits since last comprehensive evaluation.

- Investment policy and documentation demonstrating compliance.
- Internal budget control policies.
- Bond rating since last comprehensive evaluation, if available.
- Schedule of and minutes for board audit and/or finance committee meetings.
- Documentation supporting ongoing training related to integrity issues and ethical behavior for all employees and board members (e.g., sexual harassment, sexual assault, campus- safety, etc.).
- Annual conflict of interest affirmation forms signed by board and senior leadership.
- Handbooks for employees (staff and/or faculty), students, student athletes (if applicable).
- List of auxiliary functions and information about each (e.g., dining services, residential life, bookstore, parking, student health services).
- Grievance policy for faculty, staff and students if not delineated in faculty, staff and student handbooks.
- Academic catalog.
- Institutional policies on non-discrimination, anti-harassment, FERPA, anti-nepotism, intellectual property, Title IX, etc.

**2.B.** The institution presents itself clearly and completely to its students and to the public.

### **Examples**

- Academic catalog that includes program requirements for all degree levels.
- Course schedule for all degree levels offered.
- Published list of all current accreditations and statuses.
- Listing of tuition and fees and net price calculator.
- Faculty and staff roster.
- Recruitment and admissions documents for prospective students indicating requirements for institutional and program entry.
- Information pertaining to the entity that is responsible for the fiscal and operational oversight of the institution.

- Sample evaluations of activities that support the learning claimed in activity.
- A sample of academic student organizations and clubs demonstrating the diversity of groups on campus.
- Agendas and minutes from student athlete advisory committee and/or student government association.
- Information about athletic academic services.
- A list of fine arts offerings.
- Documentation of partnerships with internal and external entities to offer community service opportunities or service-learning experiences.
- Documentation of any volunteer clubs and detail of student participation.
- Campus newspapers, magazines, radio programming, and/or cable TV shows.
- List of cultural events and research and academic symposiums.
- Study abroad opportunities.

**2.C.** The governing board of the institution is autonomous to make decisions in the best interest of the institution in compliance with board policies and to ensure the institution's integrity.

#### Examples

- Board manual, policies and bylaws, including a conflict of interest policy.
- List and bios of board members.
- Documentation of the selection process for board members and for selection of chair, vice- chair, etc.
- Dates, agendas and minutes of board meetings for multiple years (and town hall or community meetings with the board).
- On-boarding and orientation process for new board members.
- Information about professional development and training for board members.
- Board approval of planning and budgeting documents.
- Board selection, evaluation, and right to terminate president of institution.
- Board self-evaluation.

**2.D.** The institution is committed to academic freedom and freedom of expression in the pursuit of truth in teaching and learning.

#### Examples

- Institutional learning principles.
- Listing of activities supported and sponsored by the institution that allow for a discussion of varying views and opinions.
- Policy on freedom of expression and/or academic freedom.
- Course listing including the range of options for general education courses.
- Policies and procedures for peaceful assembly of students.
- Statement on censorship.

**2.E.** The institution's policies and procedures call for responsible acquisition, discovery and application of knowledge by its faculty, staff, and students.

#### Examples

- Research opportunities and policies.
- Policy on academic integrity.
- Protocol, by-laws, and training documentation for Institutional Review Board (or similar entity).
- Institutional animal care and research policy, if appropriate.
- Training programs on plagiarism, citations, use of library resources, online research, etc.
- Applicable policies and procedures in student and faculty handbooks, including student honor code.
- Judicial affairs or student conduct meeting and training agendas.
- Information about sponsored program and grant office.
- Documentation of research symposia, highlighting faculty and student scholarship.

### **CRITERION 3. TEACHING AND LEARNING: QUALITY, RESOURCES, AND SUPPORT**

The institution provides quality education, wherever and however its offerings are delivered.

**3.A.** The rigor of the institution's academic offerings is appropriate to higher education.

#### Examples

- Academic catalog.
- Documentation that the institution is in compliance with federal policy for credit hour requirements, where appropriate.
- Agendas and minutes from graduate council, faculty senate and/or curriculum review committee meetings.
- Examples of course- and program-learning goals for each degree level across all modes and locations.
- A syllabus template or guidelines for course outlines.
- Documentation that supports the method in which the institution determines program levels, e.g., Bloom's Taxonomy of Learning Domains or other methodology or framework.
- Program-level admission requirements.
- External reviews conducted of programs.
- Documentation of any linkages between undergraduate and graduate level programs and differentiation of student learning outcomes by level.

**3.B.** The institution offers programs that engage students in collecting, analyzing and communicating information; in mastering modes of intellectual inquiry or creative work; and in developing skills adaptable to changing the environments.

#### Examples

- Documentation of the process for developing curriculum and course outlines.
- List of graduate and undergraduate internship and practicum program sites.
- Agendas and minutes of committees related to educational programs.
- Departmental improvement plans.
- Agendas, minutes and activities of multicultural committees.
- General education learning goals and curriculum.
- Notification from the state that the institution meets the state requirements for general education coursework, if applicable.

- Notable faculty and student achievements relative to scholarship and creative work.
- Dual credit guidelines.
- Documentation that programs meet programmatic accreditation requirements.
- Research symposia.

**3.C.** The institution has the faculty and staff needed for effective, high-quality programs and student services.

#### Examples

- Statement on faculty expectations and minimum qualifications.
- Student-to-faculty ratio (overall, on-ground, online).
- Faculty handbook.
- Summary of qualifications of Student Affairs staff.
- Documentation of professional development and training opportunities for staff and faculty, including support for instructional design.
- Sabbatical policy.
- Complete faculty roster (full-time, part-time, adjunct, online, dual credit) with information on highest degree and teaching content area with evidence of courses taught.
- Guidelines and process for hiring faculty (includes full-time, part-time, adjunct, online, dual credit) that are in compliance with HLC and specialized accreditors, as appropriate.
- Faculty and staff professional development plans and annual evaluations.
- Orientation program for all faculty (includes full-time, part-time, adjunct, online, dual credit).

**3.D.** The institution provides support for student learning and resources for effective teaching.

#### Examples

- Student handbook.
- Academic catalog.
- List of student support services, disability services, financial aid, advising, career counseling, campus childcare, cocurricular activities and health services (include for all modalities).

- Information about writing and math assistance, tutoring programs, or other support provided to students.
- Schedule or documentation of student activities, programming and organizations.
- List of veterans' affairs office activities.
- Listing of remedial or developmental courses.
- Documentation on how campus advising works (matriculation through graduation).
- Information about computer labs, clinical sites, scientific labs and performance spaces.
- First-year experience program (academic and cocurricular).
- Documentation of undergraduate and graduate student processes and research.
- Documentation of programming offered by residence life and student affairs.
- Plagiarism and academic integrity training.
- Information about libraries and resources (e.g., interlibrary loan, reference services, Ask a Librarian).
- Information about utilization of data from internal resources and external national surveys, such as the National Survey of Student Engagement or Community College Survey of Student Engagement.
- Transfer student resources.
- Advanced Placement and College Level Examination Program policies and procedures.
- Academic catalog, specifically information about transfer credit and experiential learning.
- Internal and external curricular review process.
- Guidelines for hiring faculty and a hiring process.
- Dual credit programs and guidelines.
- Published list of all current accreditations and statuses.
- Data on where students go after graduation, such as employment rates, admission rates to advanced degree programs, and participation rates in fellowships, internships and special programs (e.g., Peace Corps and AmeriCorps).
- State degree requirements and evidence of compliance.
- Documentation of a process for reviewing, approving and implementing new programs.
- Licensure or certification exam results.
- Surveys of alumni.
- Articulation agreements with other institutions.
- Documentation of engagement of faculty, academic administration, and governing board in academic program review process.

#### **CRITERION 4. TEACHING AND LEARNING: EVALUATION AND IMPROVEMENT**

The institution demonstrates responsibility for the quality of its educational programs, learning environments and support services, and it evaluates their effectiveness for student learning through processes designed to promote continuous improvement.

**4.A.** The institution ensures the quality of its educational offerings.

##### **Examples**

- Program review policy, processes, schedule and guidelines.
- Sample program review.
- Program advisory board agendas and minutes. Curriculum review committee minutes.
- Transfer credit policies, course equivalency guides, and credit validation process for prior learning and third-party providers.

**4.B.** The institution engages in ongoing assessment of student learning as part of its commitment to the educational outcomes of its students.

##### **Examples**

- General education and course, program- and institutional-level learning goals and outcomes.
- Annual reports of the assessment process.
- Faculty senate minutes.
- Curriculum maps.
- Faculty expectations and evaluation processes.
- Assessment and/or curriculum committee minutes.
- Meeting minutes and agendas demonstrating departmental use of assessment data with evidence of action taken based on review and analysis of data.
- Institutional learning outcomes and rubrics.

- Documentation of cocurricular assessment and improvements based on data.
- Assessment plan and/or process and calendar/cycle.
- Documents and reports using direct measures for assessment of student learning.

**4.C.** The institution pursues educational improvement through goals and strategies that improve retention, persistence and completion rates in its degree and certificate programs.

#### Examples

- Current rates of and goals for institutional persistence, retention and completion (include the institution's definitions of these terms).
- Strategies or initiatives implemented based on review and analysis of data to make improvements in persistence, retention and completion, such as agendas, meeting minutes and action items of units working in these areas.
- Enrollment management plan.
- Documentation of a consortium for student retention data exchange.
- Information about the institution's student success center.
- Documentation of utilization of datasets to make improvements.
- Analysis of graduation and retention rates by distinctive student populations (e.g., age, gender, race, ethnicity, first-generation status).
- Documentation of campus services to support student needs (e.g., writing center, math tutoring, study skills, time management, etc.).
- Suspension and probation trends.
- Student advising procedures and policies.
- Participation in Federal TRiO programs as it relates to persistence, completion, and retention, if applicable.
- Student exit survey results and action taken to address as applicable.

## CRITERION 5. RESOURCES, PLANNING, AND INSTITUTIONAL EFFECTIVENESS

The institution's resources, structures, processes and planning are sufficient to fulfill its mission, improve the quality of its educational offerings, and respond to future challenges and opportunities.

**5.A.** Through its administrative structures and collaborative processes, the institution's leadership demonstrates that it is effective and enables the institution to fulfill its mission.

#### Examples

- List of campus committees and teams, such as faculty or university senate, assessment committee, general education committee, library committee, etc.
- Bylaws, policies, procedures and schedules for the institution's faculty or university senate, student government association, staff senate or council, and governing board.
- Documentation outlining the organizational structure.
- Document resolutions and meeting minutes of different constituent groups.
- Agendas and minutes of governing board demonstrating knowledge and oversight of finances and academic functions.

**5.B.** The institution's resource base supports its educational offerings and its plans for maintaining and strengthening their quality in the future.

#### Examples

- Independent audited financial statements and Composite Financial Index patterns for multiple years.
- Documentation of investments in facilities and technology, including deferred maintenance.
- Campus master plan including additions and deferred maintenance.
- Policy for faculty and staff credentials.
- Information about training and professional development for faculty and staff.
- Documentation of strategic plan investments.
- Budget requests and procedures delineating flow of decision-making.



- Projected budgets/Pro-forma.
- Compliance with bank covenants and lines of credit.
- Endowment drawdown policy.
- Process for monitoring expenses.
- Mission statement and activities of institution's foundation or advancement office.
- Fundraising documentation and results.
- Enrollment plan, current enrollment and projections.
- Allocation of budget for instruction, strategic plan, mission, professional development, etc.
- Duration and amount of grants received by the institution.
- Evidence of linkage to planning initiatives related to current educational programs.
- Collective bargaining agreement(s).
- Documentation delineating linkage between planning, budgeting and evaluation/assessment.
- Retention and completion data and reports.
- Student success data and reports.
- Documentation of institutional effectiveness plans and strategies, including goals and measurable outcomes for identified functional areas.
- Student learning and academic program assessment documentation.
- Documentation regarding assessments of and satisfaction with facilities, libraries, technology, human resources, security, and other services (e.g., counseling, dining, residence life, student recreation, student activities, parking, etc.).
- Key performance indicators/dashboard.
- Meeting minutes, agendas and/or task lists indicating review and analysis of data to inform improvements of operational activities (e.g., counseling, residence life, information technology, parking, student activities).

**5.C.** The institution engages in systematic and integrated planning and improvement.

#### Examples

- History and process of strategic plan creation and constituencies involved.
- Annual updates to strategic plan.
- Budget requests and procedure for budget planning.
- Budget allocation by major area.
- Budget projections for multiple years.
- Enrollment management plan.
- Environmental scan results.
- Evidence of resources used to aid in planning activities, such as, state reports on demographics, industry/vocational employment demands, etc.
- Facilities and technology plans.
- Evidence of attainment of strategic planning goals.



#### RELATED RESOURCES

Criteria for Accreditation  
[hlcommission.org/criteria](https://hlcommission.org/criteria)

Comprehensive Evaluation  
[hlcommission.org/comprehensive](https://hlcommission.org/comprehensive)

Assurance Review  
[hlcommission.org/assurance-review](https://hlcommission.org/assurance-review)

#### CRITERIA REVISION

HLC revised the Criteria for Accreditation in February 2019, effective September 2020. The evidence provided here aligns with the Criteria effective September 2020.

For institutions preparing for reviews prior to September 2020, HLC has also provided possible sources of evidence for the current Criteria.

# **EXHIBIT 3**



## Focused Visit Report

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After the team reaches a consensus, the team chair completes this form to summarize and document the team's view. Notes and evidence should be essential and concise. **Note:** If the visit involved more than five areas of focus, please contact the institution's HLC staff liaison for an expanded version of this form.

Submit the completed draft report to the institution's HLC staff liaison. When the report is final, submit it as a single PDF file at [hlcommission.org/upload](https://hlcommission.org/upload). Select "Final Reports" from the list of submission options to ensure the report is sent to the correct HLC staff member.

Institution: Pima County Community College District

City, State: Tucson, AZ 85709-1005

Visit Date: 03/28-29/2022

**Names of Peer Reviewers** (List the names, titles and affiliations of each peer reviewer. The team chair should note that designation in parenthesis.)

Dr. Ronald S. Ramming  
President  
Connors State College  
700 College Road  
Warner, OK 74469-1000

Dr. Benjamin F. Young (team chair)  
Vice President Emeritus  
Ivy Tech Community College of Indiana  
1151 South Lakeview Drive  
Winchester, IN 47394

### Part A: Context and Nature of Visit

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1. **Purpose of the Visit** (Provide the visit description from the Evaluation Summary Sheet.)



A visit focused on reviewing Core Component 2.C (due by April 2022) with the following issues: (1) Assess effectiveness of relationships among and between Chancellor, Board Chair, and rest of Board; (2) review independence of outside legal counsel and engagement or lack thereof for Board members regarding Chancellor decisions; (3) examine Board's role overseeing College's employment processes; and (4) assess College's adherence to policies and procedures related to contracting.

## 2. Accreditation Status

- Accredited
- Accredited—On Notice
- Accredited—On Probation

## 3. Organizational Context

Pima County Community College District ("the College" or PCC) is a comprehensive community college located in Pima County, Arizona. Historically, the citizens of Pima County voted to establish the College in 1966 with the construction of the first campus begun in 1969. The initial governing board consisted of five members appointed by the Pima County Superintendent of Schools. With help from local citizens, the initial appointed governing board was replaced with an elected slate consisting of five governing board members representing the various sub-districts of Pima County. Pima County citizens also approved a \$5.9 million bond issue with the construction. Today, the College serves the Greater Tucson area at five campus locations, enrolling 15,544 students (as of the Fall 2020 semester) offering 53 associate degree and 103 certificate programs. Over 57% of the student body is Hispanic, making it a Hispanic Serving Institution in a county with a 2020 census indicating a 44% Hispanic population.

Pima Community College has had challenges in its accreditation relationship with the Higher Learning Commission, some of which first emerged just a few years after the College's initial accreditation was granted in April 1975. Because the reasons that occasion the current visit bear a relationship in some regards to Pima's history, a fair amount of detail is provided in this section about the institution's accreditation history, particularly as relates to reasons for monitoring and/or past sanctions imposed by HLC.

In particular, matters pertaining to the role of the governing board have surfaced on numerous occasions. In October 1981, the College's accreditation was continued with a focused visit scheduled for October 1984 on the role of the governing board. The 1984 focused visit team stipulated that the College submit a Progress Report by January 1986 covering major areas of concern pertaining to implementation of the Board Code of Ethics, elimination of interference in personnel matters by the Board, steps taken regarding its role, effectiveness, and perceived public support. The Progress Report, dated May 1986, was accepted by the Commission.

However, the College was placed on Probation in March 1989 for problems that threatened its ability to meet what at that time were HLC's General Institutional Requirements relating to Board governance and Criteria relating to adequate resources organized to accomplish the institution's purposes. In February 1989, the Executive Director of the Commission recommended that an advisory visit for fact-finding purposes take place at PCC for the above stated reasons even though the College's accreditation was continued. PCC submitted a report highlighting progress made on ameliorating the specific concerns that lead to Probation. The Commission accepted the report and

removed the Probation sanction on February 1991. Subsequent progress reports by PCC to the Commission documenting measures taken by the Board of Governors regarding its role, effectiveness, and perceived public support were submitted in July 1991, July 1992, and October 1993.

The HLC received several written complaints between April 2012 and December 2012 by College individuals and two community advocacy groups concerning governance issues at PCC. While senior officials at PCC provided a response to the complaints, HLC determined that the issues raised and the College's response posed significant concerns and that a thorough investigation was warranted. Therefore, in November 2012 HLC dispatched a fact-finding team to PCC to investigate the complaints and to determine the actual facts. HLC continued to receive complaints and phone calls during the month of December 2012 and January 2013, which were forwarded to the team for consideration. The team conducted its onsite visit in January 2013 and focused on the following nine (9) issues:

- Claims of sexual harassment and inappropriate behaviors by the college's Former Chancellor and failure of the Board of Governors to institute an appropriate investigation into these claims.
- Claims that a work environment existed at the college, whether fostered by and/or overlooked by senior administrators, that permitted inappropriate use of the institution's discipline and hiring processes, bullying and demeaning actions and comments toward employees, general fear of reprisals and intimidation, and the Board's knowledge of inappropriate behaviors of senior leadership and inaction on their part to stop such behaviors.
- Claims that excessive turnover of administrative positions made continuity of leadership and institutional progress towards goals difficult or impossible.
- Claims that processes within the HR department were unclear and not uniformly followed.
- Claims that the college and its Board violated its own procurement policy in regard to sole sourcing and that it lacked transparency on fiduciary matters.
- Claims that an elemental change in the mission of the college took place impacting the general makeup of the student body of the institution, that the change was not thoroughly discussed within the college and community, and that such a change took place without due notice to and review by the HLC.
- Claims that the college lacks support for developmental education and suggestions that actions were taken to mask changes in the college's initiatives to further develop its developmental education initiatives from the 2010 HLC visiting team. Claims that adequate discussion and debate about changes in the developmental education policy and practices did not take place.
- Claims that the Interim Chancellor has not been candid or honest in her responses to the HLC.

- Claims that the Board of Governors has failed to uphold its responsibility to conduct its work ethically, honestly, and in the best interests of the college, its employees and its students.

The 2013 fact-finding Visit Report was organized around the nine themes and the team conducted a series of interviews including members of the Board of Governors, senior College officials, 58 members of the College community, and members of the two community advocacy groups. The team's findings, as characterized in its report offered a picture of an institution where "transparency and openness on the part of the Board is not part of its working ethic" and "Past actions of the Board indicate that secrecy and protection of individuals is more important than transparency and a willingness to deal openly with difficult and sometimes embarrassing situations." The 2013 fact-finding team concluded that serious governance, public trusts, and senior leadership issues existed at PCC which were, at that time, in need of urgent review, attention, and action.

In the aftermath of the 2013 visit, the College was placed on Probation in April 2013. In February 2015, HLC removed the Probation sanction and simultaneously placed PCC on Notice. The Notice sanction was removed in February 2017 with the stipulation that PCC remain on the Standard Pathway and the next comprehensive evaluation (Year 4) be scheduled in 2018-19. The HLC Board of Trustees also required that the College submit an embedded Interim Report for its next comprehensive evaluation on six identified topics. Subsequently, the College met the requirements of the embedded Interim Report.

The current focused visit resulted from a new series of complaints received by HLC alleging violations of College policies and procedures by members of the Board of Governors and senior administrative officials. The team observed that some of the complaints either mirror, or are reminiscent of complaints, examined by the HLC 2013 fact-finding team. In addition, the team heard testimony from College faculty and staff that an atmosphere of fear and retaliation exists at the College that prevents employees from coming forward to voice complaints for fear of loss of employment and denial of opportunities for promotion. Several employees registered concerns with the peer review team that in particular faculty and staff of color are held to more stringent standards than their majority counterparts.

#### 4. Unique Aspects of Visit

For this focused visit, there were a number of written documents and electronic resources to examine for the visit's five separate complaints. In order to better understand the details of each complaint, the team developed a detailed chronology of recent PCC accreditation activities. That chronology is as follows:

- March 9, 2017: The Higher Learning Commission (HLC) Board of Trustees removed the sanction of Notice from PCC effective February 23, 2017. HLC stipulated PCC must remain on the Standard Pathway with its next comprehensive evaluation (Year 4) due in 2018-19.
- November 5, 2018: PCC presented its Assurance Argument to HLC through the Mid-Cycle Review process.
- December 3-5, 2018: HLC team conducted the onsite comprehensive visit including the mandated review of Federal Compliance and multi-campus visits to three campuses.

- January 29, 2019: HLC team submitted its final report recommending PCC remain on the Standard Pathway and provide follow-up monitoring on Federal Compliance (Title IV Program Responsibilities) and the six core components adjudged “met with Concerns.” No sanctions were recommended.
- February 8, 2019: HLC submitted the Standard Pathway Comprehensive Team Report (including Federal Compliance Review and Multi-campus Visit Reports) to PCC and advised the institution of the next steps.
- February 8, 2019: PCC transmitted to HLC the required Institutional Response Form indicating that it concurred with the accreditation recommendations and chose not to submit a further response.
- April 19, 2019: HLC notified PCC of the action taken by the Institutional Actions Council (IAC) to continue accreditation with Reaffirmation with the next Reaffirmation of Accreditation in 2024-2025 and with two interim reports (1) due June 1, 2021 on the correction of concerns Identified in the 2017 Audit from the Arizona Auditor General: Financial Reporting, Student Financial Assistance Cluster, TRIO Cluster, Information Technology, and Purchasing Controls (Federal Compliance, Core Components 2A and 5A); and (2) due June 1, 2021 on the Assessment of General Education, Course, and Program Learning Outcomes; Faculty Participation; and Integration of Assessment and Program Review results into the Budgeting Processes (Core Components 3B, 4A, 4B, and 5C).
- July 7, 2021: HLC notified the institution that it received a complaint regarding PCC and had initially reviewed the complaint “to determine whether it suggested potential substantive non-compliance with the institution’s ability to meet the Criterial for Accreditation or other HLC requirements.” Based on HLC’s initial review, it concluded that the complaint raised potential concerns citing Core Components 2A, 2C, and 5A. HLC asked for a PCC response by August 6, 2021. The complaint, dated June 30, 2021 and containing 490 pages, came from a PCC employee who has since been separated from PCC. This individual alleged violations of HLC Core Components 2A and 2C and Assumed Practice A1 and PCC policies and procedures regarding contracts, purchasing and conflicts of interest.
- August 6, 2021: PCC submitted its response to the June 30, 2021 complaint. The response, authored by PCC’s Chancellor, contained 473 pages with notations and exhibits refuting the allegations in the June 30, 2021 complaint.
- August 12, 2021: HLC notified PCC that the interim reports submitted as follow-up to the Fall 2018 comprehensive visit had been reviewed and accepted. No further action was needed.
- September 2, 2021: HLC wrote PCC indicating it had reviewed its response provided to the June 30, 2021 complaint. HLC found that potential concerns remained regarding PCC’s ongoing compliance with Core Component 2C. Furthermore, HLC stated that since receipt of the institution’s response to the initial complaint, two additional complaints were submitted to HLC and HLC received supplemental materials to the original June 30, 2021 complaint. This submission totaled 503 pages. HLC indicated that, upon review of the two additional complaints and the supplemental materials affixed to the initial complaint, PCC was not required to provide a new response since many of the themes cited in now three complaints covered the same underlying circumstances.

The supplemental materials associated with the initial complaint were submitted to HLC on August 15, 2021. These materials purported to be evidence in support of the June 30, 2021

complaint. One of the new complaints was filed on August 4, 2021 by a member of the community representing a local advocacy group alleging the institution violated HLC policy 2A, specifically failure of oversight by the Board of Governors (BOG) and Chancellor in awarding a PCC contract, lack of BOG input into selection of outside legal firms and a request for evidence of these firms' productivity. The local community advocacy group offered a set of concrete recommendations for improving communications between PCC and the community in its report. A law firm, stating that it represented PCC in its ongoing efforts to investigate allegations raised by a local community advocacy group in the group's report, referenced failures of leadership by the governing board at PCC. The legal firm advised the community group that it had begun its investigation and asked for specific information and requested preservation of evidence. The other complaint was filed by a current member of the PCC BOG (expressing the views of two BOG members) that alleged violations of HLC Criteria for Accreditation at PCC and ongoing general BOG dysfunction.

- October 7, 2021: HLC notified PCC that it accepted the IAC recommendation (supported by PCC's assigned HLC staff liaison) for a Focused Visit to the institution to review, primarily, governance issues and, secondarily, any related concerns that may impact the institution's compliance with Criteria for Accreditation and Assumed Practices. Some of the issues raised regarding governing board dysfunction brings the institution's troubled history of board relations into focus. The focused visit team was formed and scheduled to conduct the onsite visit, March 28-29, 2022.
- February 8, 2022: PCC submitted the required Report for a Focused Visit and subsequent additional materials. The focused visit team was scheduled and scheduled to conduct the onsite visit, March 28-29, 2022.
- March 18, 2022: HLC notified PCC that it recently received two more complaints (127 pages) regarding the institution's potential non-compliance to meet HLC Criteria for Accreditation and other requirements. Complaints had been sent to HLC on June 30, 2021 (from a soon-to-be terminated employee alleging violations by senior offices and BOG), August 4, 2021 (community advocacy group chair alleging BOG violations), August 18, 2021 (sitting BOG member alleging BOG violations), March 10, 2022 (former employee alleging violation by PCC senior officer), and March 11, 2022 sitting BOG member alleging violations by PCC senior officer). The March 10, 2022 complaint alleged unethical conduct by a current PCC senior officer for not operating with integrity when dealing with a personnel matter involving a subordinate over a two-year period. The complaint expressed frustration with the lack of institutional action even though the BOG chair and Chancellor were made aware of the complaint and both failed to intercede. The March 11, 2022 complaint was submitted by a member of the BOG who alleged a current senior officer at PCC has committed multiple violations of Arizona state law. Internal College constituents, including BOG members and Executive Leadership Team officials, indicated that they were unaware of the March 10 and 11, 2022 complaints.

Two of the complaints were authored by sitting members of the PCC Board of Governors and the two other individuals who lodged complaints were former employees. Prior to the current visit, the focused visit team reached a decision to not request interviews with external parties (former employees, private contractor for energy management firm, and representatives of a local community advocacy organization), mindful of time constraints for the 1.5-day visit. Because the work of members of the Board of Governors and a few members of the College's Executive Leadership Team was deemed crucial and necessary, the team devoted the majority of its time to meeting with the aforementioned individuals.

The team was somewhat surprised by the appearance of the Chancellor's Executive Leadership Team in attendance for the full meeting of the Board of Governors. The team was aware that the meeting needed to be called to order, in compliance with Arizona Open Meeting regulations, and then moved to executive session to secure candid comments by team members in discussion with members of the Board of Governors.

The meeting with the entire Board proved to be a bit awkward with the entire Executive Leadership Team in attendance and appeared to have a stifling impact on conversation. As a result, the meeting may not have been as productive as the Team had hoped. The matter was raised with the College Chancellor who indicated that members of the leadership team normally attend Board meetings and may not have understood that their attendance impacted deliberations.

**5. Interactions With Institutional Constituencies and Materials Reviewed.** List the titles or positions, but not names, of individuals with whom the team interacted during the review and the principal documents, materials and web pages reviewed.

Institutional Constituencies:

Pima County Community College District Board of Governors (5)

Chancellor

Executive Leadership Team (10)

General Counsel

Provost & Executive Vice Chancellor of Academic Affairs

Executive Vice Chancellor for Finance & Administration

Vice Chancellor of Educational Services & Institutional Integrity/Accreditation Liaison Officer to HLC

Assistant Vice Chancellor for Human Resources

President of Campuses & Executive Vice Chancellor for Student Experience & Workforce Development

Dean of Applied Technology

Chief Procurement Officer

Director of Maintenance & Security Operations

Faculty Senate Representatives (2)

Staff Council Representatives (2)

Materials Reviewed:

Pima Community College website ([www.pima.edu](http://www.pima.edu))

Faculty/Staff Handbooks <https://www.pimhia.edu/administration/human-resources/employee-handbook/>

Student Handbook <https://www.pima.edu/student-resources/student-policies-complaints/index>



Institutional Catalog <https://www.pima.edu/academics-programs/college-catalog/index>

Pima Community College Report for a Focused Visit on March 28-29, 2022 (submitted February 8, 2022)

HLC Focused Visit Report Template (2019 edition)

Energy Savings Performance Program Amendment (“ESPP Amendment”) to Comprehensive, Integrated Energy Management Program Agreement between Pima County Community College District and Trane U.S., Inc., March 11, 2022

Facilities Review Trane Investment Grade Audit, May 2021

Correspondence Documenting Experiences with PCC Chief of Staff

Correspondence Documenting Order of Dates for PCC Purchase and Installation of 556 Trane/Synexis Spheres (5 separate items)

HLC Review Meeting Talking Points March 29, 2022

HLC Policies regarding Focused Visit, Notice, and Special Monitoring

National Center for Education Statistics (NCES) College Navigator Data File for Pima Community College

PCC Diversity, Equity and Inclusion Plan 2017-2020

PCCCD Governing Board Bylaws (as of February 7, 2018)

PCCCD Board Policies

PCCCD Administrative Procedures

Various PCCCD Board of Governors Documents (Minutes, Board Reports)

PCCCD Review of & Proposed Revisions to Governing Board Bylaws (PowerPoint Presentation by Outside Legal Counsel on February 17, 2022)

HLC Background Information and Materials regarding Relationship with PCCCD for 2022 Focused Visit:

- PCC Institutional Status & Requirements Report (January 28, 2022)
- PCC Institutional Actions Council (IAC) Action Letter (April 19, 2019)
- PCC Mid-Cycle Institutional Response (February 8, 2019)
- PCC Mid-Cycle Standard Pathway Federal Compliance & Multi-Campus Reports (February 8, 2019)
- PCC Assurance Argument (November 5, 2018)
- PCC Mid-Cycle Team Report (January 29, 2019)
- HLC Letter to PCC regarding Ward Complaint & Requesting Response by August 6, 2021 (July 7, 2021)
- PCC Response to Ward Complaint with Exhibits 1-10 (August 6, 2021)
- PCC Educational Master Plan 2015-2025 (August 6, 2021)
- HLC Analysis of PCC Interim Report 3B, 4A, 4B, & 5C (August 12, 2021)
- HLC Reply to PCC Response to Ward Initial Complaint (September 2, 2021)
- PCC Acknowledgment HLC Focused Visit Recommendation (September 15, 2021)
- HLC Notification to PCC with IAC Recommended Action (October 7, 2021)

- HLC Letter to PCC Adding Two Additional Complaints (March 18, 2022)

Additional Documents Requested by Focused Visit Team:

- Association of Governing Boards of Universities and Colleges (AGB) Consulting contract & report (An Independent Assessment of the Governance Effectiveness of the Pima Community College Governing Board, dated February 25, 2022)
- Association of Community College Trustees (ACCT) Consulting contracts & reports for the past five years (2017, 2018, 2019, 2020, & 2021)
- List of contracts for outside legal services for the past five years (2017, 2018, 2019, 2020, & 2021) by:
  - Firm
  - Requested service
  - Payment
- PCC Board of Governors (BOG) evaluations for the past five years (2017, 2018, 2019, 2020 & 2021)
- Roster of BOG members serving in the roles of chair and vice chair/secretary for the past ten years
- Full report of BOG evaluations of chancellor's performance for the past five years (2017, 2018, 2019, 2020, & 2021)
- List of the hires, promotions, demotions, and terminations/separations among Executive Leadership Team positions for the past five years (2017, 2018, 2019, 2020, & 2021) by:
  - Gender
  - Race/ethnicity
  - Starting date and annual compensation for new hires
  - Increase in base salary for promotions (assumption of new duties and responsibilities)
  - Reductions in base salary for demotions (reassignment of current duties and responsibilities)
  - Any conditions associated with demotions and terminations/separations (such as, non-disclosure agreements)
- Breakdown of student population using NCES Fall 2021 figures for PCC supervisory districts by race/ethnicity
- More extensive biographical profiles for current BOG members
- Report of HLC Fact-Finding Visit to PCC January 16-18, 2013 (Kathleen Nelson Report)

6. **Areas of Focus.** Complete the following A and B sections for each area of focus identified in the visit description on the Evaluation Summary Sheet. Note that each area of focus should correspond with only one Core Component or other HLC requirement.

**A1. Statement of Focus:**

- **Assess the effectiveness of the relationship between the Chancellor, Board Chair, and the rest of the Board including allegations that Board members failed to follow their own policies and bylaws, are not adequately trained as to their legal and fiduciary responsibilities, are too closely aligned with influential outside groups, appear to hold differing views on shared governance, and do**



**not always consider the interests of all segments of the College community (external and internal) when making key decisions**

Relevant Core Component or other HLC requirement:

**2.C**

**The governing board of the institution is autonomous to make decisions in the best interest of the institution in compliance with board policies and to ensure the institution's integrity.**

**B1.** Statements of Evidence (check one below):

- Evidence demonstrates adequate progress in the area of focus.
- Evidence demonstrates that further organizational attention, rather than monitoring, is required in the area of focus.
- Evidence demonstrates that monitoring is required.
- Evidence demonstrates that HLC sanction is warranted.

The team will also note its determination as to each applicable Core Component or HLC requirement in Part B.

Evidence:

- The Board of Governors (the Board) is the legally constituted and final authority for the operation of the Pima County Community College District (the College). The term of office for a Board member is six years, elected by supervisorial districts. The Board's primary duties include (1) determining the mission of the College and, based on the mission, formulating appropriate College priorities; (2) adopting Board policies and bylaws; (3) selecting a model of governance to meet the needs of the College and the College community; and (4) appointing the College Chancellor and establishing limitations for and delegation of authority for that position as well as evaluating the Chancellor's performance annually. In meetings with the individual members and the full Board, all members indicated that they understood their role and were capable of serving in that role. A review of Board meeting minutes, accessible via the College's website, provides proof that all Board members regularly attend meetings and study sessions and actively participate in deliberations. Finally, the team sought and received expanded biographical profiles of the five elected Board members. They are active in civic affairs, racially diverse, and socio-economically mixed.
- Under the direction of the five-member Board of Governors, the Chancellor directs all College activities of an internal, academic or administrative nature and those which contribute to effective external relations with College constituencies. The current Chancellor received a contract extension for an additional year approved by the BOG on November 10, 2021 at the Board's regular meeting. The motion for the contract extension was approved by a "3-2" vote, demonstrating disagreement among Board members as to the leadership direction of the College. The College identified 14

administrative positions that form the Chancellor's Executive Leadership Team who are responsible for effective leadership of their designated areas. The organizational chart and names of members of the Board of Governors are available to the public on the College's website.

- As noted in the PCC Report for a Focused Visit, dated February 8, 2022, the BOG acknowledged its current challenge owing to significant internal disagreement as to how Board members view their roles and responsibilities. The team witnessed this disagreement was evident during the full meeting of the Board and heard disparaging comments among and between Board members and senior administrators. A review of Board meeting minutes revealed a number of "3-2" votes taken by BOG on major policy issues. Moreover, the team was struck by the "we" versus "them" attitude exhibited by members of the Executive Leadership Team when discussing the state of Board affairs. A couple of Board members expressed their frustration at the level of disrespect received from the Chancellor, Executive Leadership Team members, and fellow Board members. The sentiment expressed was that some Board members want to disenfranchise members of their particular District community and that issues of race, class/privilege, and access to information play a part in decision-making. The team believes the Board is divided as to its role and responsibilities and that not all members of the Board have or perceive they have a working relationship with the Chancellor. Thus, it is the team's view that the College's mission to provide the best educational setting for the citizens of Pima County is at risk.
- The BOG participates in professional development activities aimed at enhancing its effectiveness as a public serving Board. The Board's major event is the annual retreat (normally over two days) held for the purpose of conducting the Chancellor's evaluations using the ACCT template and discussing the outcomes from the Board's self-assessment process. The team was provided the slate of 2021-22 strategic priorities and goals established by the Board as part of the annual retreat. Three of the goals were particularly focused on improving relationships among and between Board members and with the Chancellor. The first was strengthening Board effectiveness by working collaboratively and commitment to active participation by all five members. The second was improving communications within the Board and with the Chancellor through mutual trust and respect by striving to speak and act as a unified governing body. The third was conducting a thorough review of policy and bylaws by making sure all policies and bylaws are clear and meet HLC standards. The team was apprised that Board members take their goals and priorities seriously and are reviewed periodically to ensure progress is made. Further, the team advises the College to publicize the outcomes from these three goals in particular and all eight in total to the internal community as a means of reporting progress to heal the rift among and between Board members and to improve Board members' relationship with the Chancellor.
- In a meeting with the Chancellor, two Board members and the team to discuss engagement with the Chancellor in key decision-making on reasonable and relevant community interests, the Chancellor expressed a willingness to meet face-to-face with all (not just some) Board members and to work on efforts to bring the community

together to share thoughts. In the same meeting, one of the two Board members voiced their frustration, directly to the Chancellor, that some Board members enjoy preferential treatment from the Chancellor and other Board members are disrespected and treated poorly by the Chancellor. The team's review of the AGB Consulting's paper, dated February 25, 2022, uncovered a passage on page 7 that cited affirmative efforts by the Faculty Senate to clarify its role in bringing forth issues, the Chancellor's desire to change the way "meet and confer" consultations take place, and All College Council to improve communications across constituencies. In addition, the team found that the local community advocacy group C-FAIRR (Coalition for Accountability, Integrity, Respect, and Responsibility) offered the College in its August 4, 2021 complaint filed with HLC, five recommendations designed to help the PCC Board of Governors. Those recommendations are as follows: (1) The Board must establish a Citizen Advisory Council for each district to assist in improving communication between the community and the Board of Governors, and to serve as advocates to the community, the citizens, and decision-makers to ensure that the district's educational programs and services meet the needs of the community and the citizenry to be served....(2) The Board must begin to include internal and external communities in providing input into Board decision-making. (3) The Board must embrace transparency and be willing to deal openly with difficult and sometimes embarrassing situations. (4) The Board should engage in a major and thorough review of all policies pertaining to delegation of authority to Chancellor. (5) Openness, transparency, and a willingness to discuss and debate various points of view and opinions must be more readily imbedded in the Board's culture and operations. While general in nature and duplicative to a point, the recommendations were shared with the College by a local advocacy group and warrant serious consideration.

- The team reviewed notes from the last six annual retreats and noted that not all Board members attended the retreats or fully participated in both major activities (Chancellor's evaluation and BOG self-assessment). When questioned about the attendance issue, several Board members stated they had a conflict with the date chosen for the retreat. In addition, all new Board members are asked to participate in a multi-part orientation session conducted by the Board Chair, Chancellor, and several senior officers. In this session information was discussed regarding Board responsibilities, academic affairs, budgets, and strategic planning. The last new member orientation session was conducted on January 29-February 1, 2021. In its Focused Visit Report, the College described efforts made to acquaint Board members with state Open Meetings Law statutory requirements and provided a complete list of professional development activities from 2019 through 2021 on the last two pages of the report. In conclusion, the College invests heavily in the Board's professional development including bringing in local consultants to brief members on special topics and travel to state, regional, and national conferences.
- In the meetings with individual members of the BOG and Faculty Senate and Staff Council leadership representatives as well as invited guests for areas of focus and senior management, the team noted the immense responsibility inherent in the role of Board Chair (and lesser so for the Vice Chair/Secretary of the Board). The Board Chair, based on an examination of Board minutes, works closely with the Chancellor to set Board agendas, plans Board professional development activities, communicates

as needed and desired with Executive Leadership Team members, and receives and adjudicates all complaints made against the Chancellor or other Board members working with the General Counsel. Current bylaws state that officers of the Board serve for two-year terms and shall rotate through these offices based on the original swearing-in date. There is a provision that indicates exceptions can be made to this section of the bylaw by majority vote. Two current Board members voiced their concern that the provision has been used against them to deny them the opportunity to serve in the coveted role of Board Chair and attempts to return the two-year appointment back to one-year had been cast aside with a “3-2” vote. The two members cited that the lack of a meaningful opportunity to work closely and productively with the Chancellor is detrimental to the College. The team asked for, and received, a roster listing PCC board chairs and vice chairs/secretaries since 2012. Of the current Board members, two are in their sixth year of service, two are in their fourth year, and one in his/her second year. Of the two members in their sixth year of service, one has served as chair or vice chair for six years and the other one in five of six years. The two members in their fourth year have never served as chair or vice chair/secretary even though one member self-nominated himself/herself for the role of chair and lost on a “3-2” vote. The Board member serving in his/her second year has served as an officer in both years of service on the Board (currently serving as Board chair). Based on these facts and the resulting suspicions of the affected Board members, the team finds this has contributed to ongoing conflict within the governing board to the detriment of the institution.

- An examination of the PCC Governing Board Bylaws contains an article pertaining to Code of Ethics Article X) that states elected or appointed members of the Board serve as representatives of Pima County and each and every Board member must commit itself to the very highest legal and ethical conduct. This article spells out the ethical responsibilities of the Board, including maintaining the confidentiality of privileged information and delegating authority to the Chancellor as the Board’s executive to perform a set of high-level duties. In addition, the article states the College’s expectation that Board members make known in the official records of the College any and all conflicts of interests and abide by BOG policies and bylaws. In the session with Board members, all attested to their allegiance with prescribed policies and bylaws.

Yet the College’s Report for a Focused Visit submitted to the Higher Learning Commission presented conflicting evidence to what the focused visit team heard onsite. The Report listed three examples in which some Board members are alleged to have acted not in the best interest of the College. These examples referenced (1) the refusal of two Board members to provide letters of support to a ballot initiative that the Report stated they had voted to approve, (2) an allegation of conflict of interest by Chancellor regarding an energy management contract but an inability or unwillingness to provide evidence, and (3) a lack of compliance with Open Meeting Law as public officials.

The disharmony that exists among and between Board members is real and evident. The team asked Board members in the full session what would they be willing to do to improve the situation. Recommendations such as establishing trust, improving communications, adhering to policy, and respecting the voice of others were mentioned. The team concluded that the College has adequate policies, procedures,

and bylaws in place even though the drafted revisions of the current bylaws (on the College's website) appear to codify some restrictive clauses not favored by the entire Board. At this time, the team advises the Board against forcing major changes to its bylaws with "3 to 2" votes. Such an approach would only reinforce the "them" versus "us" viewpoint that is pervasive at the College.

## A2. Statement of Focus:

**The independence of the outside legal firm selected to respond to the former employee's grievance and the engagement or the lack thereof of current Board members in decisions made by the Chancellor**

Relevant Core Component or other HLC requirement:

### 2.C

**The governing board of the institution is autonomous to make decisions in the best interest of the institution in compliance with board policies and to ensure the institution's integrity.**

## B2. Statements of Evidence (check one below):

- Evidence demonstrates adequate progress in the area of focus.
- Evidence demonstrates that further organizational attention, rather than monitoring, is required in the area of focus.
- Evidence demonstrates that monitoring is required.
- Evidence demonstrates that HLC sanction is warranted.

The team will also note its determination as to each applicable Core Component or HLC requirement in Part B.

Evidence:

- The College has an Administrative Procedures manual (AP 6.01.01) outlining the steps for requesting outside legal services. Given the fact that the BOG delegates day-to-day management of the College to the Chancellor and senior staff, it is reasonable to assume the BOG understands and accepts decisions made to seek outside legal advice when needed. The Chancellor and several designated senior officers (including the Internal Auditor) are authorized to request legal services. While the College does have internal legal resources, outside legal counsel may be contracted in situations where the College does not have sufficient expertise or in matters where specific knowledge is required. The team confirmed that requests for legal services must be directed to the General Counsel who is authorized to refer matters to contracted legal firms, with the consent of the Chancellor. The team requested, and received, a report detailing the College's use of external legal services from

FY 2017 through FY2022. A total of ten different firms were contracted for various legal services, reflecting the Board's use of individual firms in the Pima County community. The report identified the firm of service, the type of service/review/consultant requested, and payment received for services. A review of services requested included, but was not limited to, real estate matters, Board bylaw reviews, and personnel matters. The team sampled a few external legal work products and found that they addressed the issue or topic of debate. For example, one such work product was the review of the Chancellor's behavior regarding all allegations of conflict of interest. The review concluded that no conflict of interest occurred based on College policy.

- There was a complaint received by HLC on June 30, 2021 that called into question the independence of one of the outside attorneys who was contracted. That attorney's assignment was to conduct a review of potential conflicts of interest of the Chancellor as related to the awarding of the energy management contract and to recommend potential policy changes or practices related to procurement. The attorney in question concluded there was no conflict of interest in this matter under applicable Arizona state law and did offer several minor procedural modifications.
- The team was notified of two additional complaints received by HLC on March 18, 2021 alleging violations by PCC's General Counsel and were provided a copy of a complaint dated March 12, 2022 that was filed against the General Counsel with the Arizona Bar Association by two sitting Board members. While there were several allegations of misconduct, after meeting with the complainants, much of the discord seems to focus on the Board's role in hiring outside legal counsel and perceptions of who the General Counsel reports to and represents. The team interviewed the General Counsel who was aware of the complaints with the Arizona Bar Association but was not aware those complaints had been lodged with HLC. The General Counsel shared that the role of General Counsel was to advise on policy, compliance and risk management. In terms of reporting, the General Counsel clarified his role in that he/she is an employee of Pima County Community College District and functions within the authority specific to a particular matter. For example, he/she stated that he/she reports to the Chancellor in situations dealing with issues that have been delegated by the Board to the Chancellor and reports to the Board on issues that have not been delegated to the Chancellor. In terms of hiring contract legal assistance, Board Policy AP 6.01.01 directs all requests for legal services be forwarded to the General Counsel who is able to obtain outside legal assistance after consulting with the Chancellor.

### A3. Statement of Focus:

**The Board's role in overseeing the College's employment processes, including hiring, terminating, promoting, and demoting of faculty and staff members**

Relevant Core Component or other HLC requirement:

**2.C**



**The governing board of the institution is autonomous to make decisions in the best interest of the institution in compliance with board policies and to ensure the institution's integrity.**

**B3. Statements of Evidence (check one below):**

- Evidence demonstrates adequate progress in the area of focus.
- Evidence demonstrates that further organizational attention, rather than monitoring, is required in the area of focus.
- Evidence demonstrates that monitoring is required.
- Evidence demonstrates that HLC sanction is warranted.

The team will also note its determination as to each applicable Core Component or HLC requirement in Part B.

**Evidence:**

- In the meetings with BOG and the Assistant Vice Chancellor for Human Resources, the team was thoroughly briefed on the responsibilities of the Human Resources Department and the intersection of this department with the College's conflict resolution and grievance procedures. The team did note the recent rapid turnover in Human Resources leadership with three different supervisors in the last five years. The current chief human resources officer has been with the College approximately 16 months, is supported by a staff of two individuals, and oversees all customary functions except employee benefits. Responsibility for affirmative action and EEOC monitoring falls under this department. The team's assessment of PCC Human Resources policies and administrative procedures is that they are appropriate for an institution of higher education and the department is capably managed by the Assistant Vice Chancellor.
- Board of Governors members at PCC are assisted in their oversight of the College's major employment processes by an established Human Resources Advisory Committee. This committee, which meets at least quarterly, keeps the Board informed regarding pertinent Human Resources matters but does not address personnel issues specific to a particular individual. The committee is comprised of two sitting Board members, at least three community representatives, and the Assistant Vice Chancellor for Human Resources. The PCC General Counsel serves in a non-voting ex-officio capacity. The team affirmed through conversations with Board members and the Assistant Vice Chancellor that the advisory committee does indeed review the Human Resources metrics crafted by College administration, considers updates aimed at improving the Human Resources Department, and offers suggestions for enhancing operations. The team also pulled up a sample of committee meeting notes from the College's website. Of note from the March 3, 2022 meeting, held virtually, was an agenda item for an update on the classification/compensation study which was a topic of great interest among employees when the team was onsite for the focused visit.

- While the 2022 focused visit team heard a number of positive comments about progress the governing board and senior administration has made since the HLC imposed 2013 Fact-Finding Visit, the positive comments were not universal. The following comments are representative of discontent that was shared with the team during the visit:
  - During the meeting with Faculty Senate and Staff Counsel leadership, comments were made that the Chancellor has undue influence over the Board and there is a noted lack of transparency (that is, what is said is not always done).
  - During the scheduled meeting with an assembled group of College administrators to discuss College policies and procedures related to contracting/purchasing, one of the attendees indicated that he/she felt intimidated and uneasy about making any comments at that time since his/her supervisor was present in the room. Such revelation resulted in the team asking other attendees to depart the session and await further word from the team. The team proceeded with the interview with the attendee's permission. The attendee stressed that a culture of fear and intimidation exists at PCC and his/her voicing any disagreement could lead to the loss of his/her job. The team informed the attendee that HLC welcomed feedback from affected faculty, staff, students, and community members and thanked the attendee for providing feedback. The attendee departed the session before the other attendees were asked to return to the session.
  - The March 10, 2022 complaint received by HLC alleges that a current PCC senior officer lied to him/her about a promise to match a salary offer from a competing institution, refused to honor the promise, and did not follow Board policy relative to grievances filed by employees to their supervisor. The individual claimed that the Chancellor and Board chair were aware of the salary dispute and refused to intervene or transmit the complaint to the appropriate office. The alleged complaint occurred two years ago.
  - During the visit, multiple senior PCC officers alleged that since the arrival of another senior PCC officer the College has embarked on a culture of fear, shame, and bullying. Mentioned as allegations are senior officers ignoring the conflict resolution policy (basically the Office of Dispute Resolution) to favor one employee over another, adjusting the compensation guidelines to offer massive salary increases to preferred senior officers without justification, exhibiting insensitive behavior toward women in leadership positions, and "crashing" ZOOM meetings without being invited. One senior officer attested to personally witnessing a lack of respect in the treatment of women and people of color by that same senior officer in the previous example. Also mentioned as contributing to PCC's toxic environment are the sudden resignation of top-level administrators of color, the resignation of a transgendered employee who left the College because they did not feel supported or respected, and a mostly white, male dominated leadership group around the Chancellor that fosters a so-called "Bro Culture."

The College is strongly advised to review these allegations by its own employees and take appropriate action to remedy such situations.

#### A4. Statement of Focus:

**The College's failure to follow its own policies and procedures related to contracting, including the role the Board plays in reviewing and approving contracts**



Relevant Core Component or other HLC requirement:

## 2.C

**The governing board of the institution is autonomous to make decisions in the best interest of the institution in compliance with board policies and to ensure the institution's integrity.**

**B4.** Statements of Evidence (check one below):

- Evidence demonstrates adequate progress in the area of focus.
- Evidence demonstrates that further organizational attention, rather than monitoring, is required in the area of focus.
- Evidence demonstrates that monitoring is required.
- Evidence demonstrates that HLC sanction is warranted.

The team will also note its determination as to each applicable Core Component or HLC requirement in Part B.

Evidence:

- As noted in the College's August 6, 2021, response to the June 30, 2021 complaint to the HLC by a now former employee, the institution documented the measures it took to identify and offer a contract to an energy management company. The Board of Governors delegated to the Chancellor the responsibility for the administration of financial affairs. The decision to abstain from using the State of Arizona Department of Administration cooperative purchasing agreement and instead use a competitive bidding process rests entirely with the College.
- Responsible departments are clearly spelled out in Administrative Procedures and linkages to strategic planning priorities are identified. The team met with representatives from all segments of the process. The only area of contention for the energy management project was with the role of PCC's Facilities Department. A member of that department met with the team and provided several pieces of correspondence that raised concerns about the suitability of certain components of the project. That being said, the team found evidence of a well-established College purchasing process, including milestones for seeking and receiving BOG approvals.

**7. Other Accreditation Issues.** If applicable, list evidence of other accreditation issues, identify the related Core Components or other HLC requirements and note the team's determination as to each applicable Core Component or other HLC requirement in Part B.

## Part B: Recommendation and Rationale

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### Recommendation:

- Evidence demonstrates that no monitoring is required.
- Evidence demonstrates that monitoring is required.
- Evidence demonstrates that HLC sanction is warranted.

### Rationale for the Team's Recommendation

The team is recommending monitoring for Pima Community College on Core Component 2.C.

The HLC received a series of complaints by current BOG members, a local community group, and former employees alleging violations of HLC requirements. HLC's initial review of the submitted complaints found cause to inquire about PCC's ability to comply with established HLC Criteria for Accreditation and Assumed Practices. A focused team was tasked to visit the College and verify compliance with Core Component 2.C.

The visiting team decided on four areas of focus to tailor its work activities. The four areas of focus are (1) Assess effectiveness of relationships among and between Chancellor, Board Chair, and rest of Board; (2) Review independence of outside legal counsel and engagement or lack thereof for Board members regarding Chancellor decisions; (3) Examine Board's role overseeing College's employment processes; and (4) Assess College's adherence to policies and procedures related to contracting.

Of these four areas of focus, the team rated two areas (A2 and A4) as demonstrating adequate progress and two (A1 and A3) which will require monitoring.

**Focus Area A1**, *Assess Effectiveness of Relationships Among and Between Chancellor, Board Chair, and Rest of Board*, is the team's source of major concern and warrants HLC monitoring. It is evident that a significant rift has developed among the Board of Governors with little evidence of a quick and easy path to harmony. Left unchecked, this rift could lead to a state of dysfunction that further puts the institution at risk of falling out of compliance with HLC requirements. The College prepared reports for the team and also permitted its outside counsel and consultants to share their comments (which were not complimentary) about sitting Board members. Of particular note is the expressed frustration by some Board members that the role of Board Chair is being passed around to certain members to keep other Board members in a "lesser" status. Onsite senior administrators were quick to point out differences among and between Board members, rarely championing bridging qualities or points of commonality. Chancellor leadership for creating an environment of acceptance of different opinions is needed.

**Focus Area A3**, *Examine Board's Role Overseeing College's Employment Processes*, falls into the category of requiring HLC monitoring. Faculty and staff voiced their opinions that PCC had embraced an institutional culture of fear, bullying, and intimidation and that the Office of Dispute Resolution was an ineffective body. Related issues raised pertained to the sudden departure of senior administrators of color, the disrespectful treatment toward women, and the lack of transparency when promotions and salary adjustments. Generally speaking, a number of constituents expressed dissatisfaction that the ethnic/racial composition of the senior leadership does not reflect the student body and Pima County community.

### **Stipulations or Limitations on Future Accreditation Relationships**

If recommending a change in the institution's stipulations, state both the old and new stipulation and provide a brief rationale for the recommended change. Check the Institutional Status and Requirement (ISR) Report for the current wording. (Note: After the focused visit, the institution's stipulations should be reviewed in consultation with the institution's HLC staff liaison.)

Not applicable.

### **Monitoring**

The team may call for a follow-up interim report. If the team concurs that a report is necessary, indicate the topic (including the relevant Core Components or other HLC requirements), timeline and expectations for that report. (Note: the team should consider embedding such a report as an emphasis in an upcoming comprehensive evaluation in consultation with the institution's HLC staff liaison.)

The team recommends a single interim report, under Core Component 2.C., due by July 1, 2023. The report must provide evidence demonstrating the institution has remedied the following concerns:

- I) Board Effectiveness
  - 1. Revision of the BOG bylaws ensuring equal access to the Board Chair's role on a rotational basis
  - 2. Clarification and agreement on the delegation of authority for the Chancellor
  - 3. Information is flowing to and from all members of the Board of Governors
  
- II) Board Oversight of Employment Processes and Institutional Climate
  - 1. Processes are in place to ensure fair and equitable treatment of women and people of color with periodic progress reports shared with College community
  - 2. Enhancement of the metrics for the Diversity, Equity, and Inclusion initiative
  - 3. Defined role statements demonstrating the interconnection of the Office of Dispute Resolution and Human Resources Department
  - 4. Plan to achieve racial/ethnic and gender diversity for the Executive Leadership Team, full-time teaching faculty, and technical/professional staff reflecting the student body profile and Pima County community

The team may call for a follow-up focused visit. If the team concurs that a visit is necessary, indicate the topic (including the relevant Core Components or other HLC requirements), timeline and expectations for that visit. (Note: The team should consider embedding such a visit as an emphasis in an upcoming comprehensive evaluation in consultation with the institution's staff liaison.)

Not applicable.

### Core Component Determinations

Indicate the team's determination(s) (met, met with concerns, not met) for the applicable Core Components related to the areas of focus or other accreditation issues identified by the team in Part A. If a Core Component was not included in an area of focus, it should be marked as not evaluated.

Number	Title	Met	Met With Concerns	Not Met	Not Evaluated
1.A	Core Component 1.A	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
1.B	Core Component 1.B	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
1.C	Core Component 1.C	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2.A	Core Component 2.A	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2.B	Core Component 2.B	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2.C	Core Component 2.C	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2.D	Core Component 2.D	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2.E	Core Component 2.E	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3.A	Core Component 3.A	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3.B	Core Component 3.B	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3.C	Core Component 3.C	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3.D	Core Component 3.D	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4.A	Core Component 4.A	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4.B	Core Component 4.B	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4.C	Core Component 4.C	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5.A	Core Component 5.A	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5.B	Core Component 5.B	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5.C	Core Component 5.C	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

### **Other HLC Requirement Determinations**

Indicate the team's determination(s) (met or not met) for the HLC requirements related to the areas of focus or other accreditation issues identified by the team in Part A.

Not applicable.

# Institutional Status and Requirements Worksheet

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<b>INSTITUTION and STATE:</b>	Pima County Community College District, Arizona
<b>TYPE OF REVIEW:</b>	Monitoring - Focused Visit
<b>DESCRIPTION OF REVIEW:</b>	A visit focused on reviewing core component 2.C (due by April 2022).
<b>DATES OF REVIEW:</b>	03/28/2022 03/29/2022
<input type="checkbox"/> No Change in Institutional Status and Requirements	

## Accreditation Status

Control: Public

**Recommended Change: no change**

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Degrees Awarded: Associates

**Recommended Change: no change**

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Reaffirmation of Accreditation:

Year of Last Reaffirmation of Accreditation: 2018 - 2019

Year of Next Reaffirmation of Accreditation: 2024 - 2025

**Recommended Change: no change**

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## Accreditation Stipulations

General:

The institution is approved at the following program level(s): Associate's

The institution is not approved at the following program level(s): Bachelor's, Master's, Specialist, Doctoral

**Recommended Change: no change**

Additional Locations:

Prior HLC approval required.

# Institutional Status and Requirements Worksheet

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**Recommended Change: no change**

Distance and Correspondence Courses and Programs:

Approved for distance education courses and programs. The institution has not been approved for correspondence education.

**Recommended Change: no change**

Accreditation:

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## Accreditation Events

Accreditation Pathway: Standard Pathway

**Recommended Change: no change**

Upcoming Events:

Comprehensive Evaluation Visit - The team should review that the institution has completed its plan to come into compliance with the faculty qualification requirement.	2024 - 2025
Federal Compliance Review -	2024 - 2025

Upcoming Addresses Events:

Multi-Location Visit -	2022 - 2023
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## Monitoring

# Institutional Status and Requirements Worksheet

Upcoming Events:

**(No Upcoming Events)**

**Recommended Change:** A monitoring report due July 1, 2023 to 1) demonstrate the following concerns have been addressed for board effectiveness, including clarification and agreement about delegation of authority for the Chancellor, flow of information, and revision of by-laws to ensure equal access to the Board Chair’s role on a rotational basis; and 2) focus on board oversight of employment processes and institutional climate to include equitable treatment and periodic progress reports shared with the college community, enhanced metrics for DEI initiatives, and a plan to achieve racial/ethnic and gender diversity to better reflect the student body and surrounding community.

## Institutional Data

### Educational Programs

**Recommended  
Change: no  
change**

#### Undergraduate

Associate Degrees 38

Baccalaureate Degrees 0

#### Graduate

Master's Degrees 0

Specialist Degrees 0

Doctoral Degrees 0

**Certificates** 68

### Extended Operations

#### Active Branch Campuses

- UNITED STATES, 401 North Bonita Ave, Tucson, Arizona, 85709-5000
- UNITED STATES, 1255 North Stone Ave., Tucson, Arizona, 85709-3000
- UNITED STATES, 7600 North Shannon Road, Tucson, Arizona, 85709-7200
- UNITED STATES, 5901 South Calle Santa Cruz, Tucson, Arizona, 85709-6000
- UNITED STATES, 8181 East Irvington Rd., Tucson, Arizona, 85709-7000
- UNITED STATES, 2202 West Anklam Rd, Tucson, Arizona, 85709-0001

**Recommended Change: no change**





## Institutional Status and Requirements Worksheet

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### Active Additional Locations

UNITED STATES, 1789 W. Coolidge Avenue, Coolidge, Arizona, 85128  
 UNITED STATES, 6911 N. BDI Blvd., Douglas, Arizona, 85607  
 UNITED STATES, 1601 Main Street, Mesa, Arizona, 85201  
 UNITED STATES, 2021 North Grand Avenue, Nogales, Arizona, 85621  
 UNITED STATES, 25 W. Calle Concordia, Oro Valley, Arizona, 85704  
 UNITED STATES, 2475 W Naranja Drive, Oro Valley, Arizona, 85742  
 UNITED STATES, 1617 W. Williams Drive, Phoenix, Arizona, 85027  
 UNITED STATES, 590 Camino Lito Galindo, Rio Rico, Arizona, 85648  
 UNITED STATES, 350 W. Sahuarita Rd., Sahuarita, Arizona, 85629  
 UNITED STATES, 5655 W. Valencia Road, Tucson, Arizona, 85757  
 UNITED STATES, 8901 South Wilmot Road, Tucson, Arizona, 85756  
 UNITED STATES, 3855 E. Golder Ranch Drive, Tucson, Arizona, 85739  
 UNITED STATES, 7465 S. Camino Benem, Tucson, Arizona, 85757  
 UNITED STATES, 4355 East Calle Aurora, Tucson, Arizona, 85711  
 UNITED STATES, 1250 W. Silverlake Rd., Tucson, Arizona, 85713  
 UNITED STATES, 10000 South Wilmot Road, Tucson, Arizona, 85734  
 UNITED STATES, 839 W. Congress, Tucson, Arizona, 85747  
 UNITED STATES, 2855 W. Master Pieces Dr., Tucson, Arizona, 85741  
 UNITED STATES, 3901 W. Linda Vista Blvd., Tucson, Arizona, 85742  
 UNITED STATES, 3500 S. 12th Ave., Tucson, Arizona, 85713  
 UNITED STATES, 3759 N. Commerce Drive, Tucson, Arizona, 85705  
 UNITED STATES, 400 N. 2nd Ave., Tucson, Arizona, 85705  
 UNITED STATES, 450 E. Wetmore Road, Tucson, Arizona, 85705  
 UNITED STATES, 7211 South Park Avenue, Tucson, Arizona, 85709-6185  
 UNITED STATES, 5355 E Granite St, Bldg 2441, Suite 130, Tucson, Arizona, 85709-3009  
 UNITED STATES, 12000 W. Emigh Rd., Tucson, Arizona, 85743  
 UNITED STATES, 5125 West Camino de Fuego, Tucson, Arizona, 85743  
 UNITED STATES, 1725 E. Bilby Rd., Tucson, Arizona, 85706  
 UNITED STATES, 10001 South Wilmot Road, Tucson, Arizona, 85756  
 UNITED STATES, 6680 South Country Club Road, Tucson, Arizona, 85709-6185  
 UNITED STATES, 12960 S. Houghton Road, Tucson, Arizona, 85747  
 UNITED STATES, 3546 East Pima Street, Tucson, Arizona, 85716  
 UNITED STATES, 4101 E. Valencia Rd., Tucson, Arizona, 85706  
 UNITED STATES, 8727 E. 22nd Street, Tucson, Arizona, 85710  
 UNITED STATES, 3951 S Pantano Rd., Tucson, Arizona, 85730  
 UNITED STATES, 1230 South Cherrybell Stravenue, Tucson, Arizona, 85713

**Recommended Change: no change**

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### Contractual Arrangements

13.0101 Education, General - Associate - Elementary Education - AA - Embanet-Compass Knowledge Group Inc. (Pearson)

13.1099 Special Education and Teaching, Other - Certificate - Special Education Mild-Moderate Disabilities Certification - Post Degree Certification - Embanet-Compass Knowledge Group Inc. (Pearson)

13.1099 Special Education and Teaching, Other - Certificate - Special Education Mild-Moderate Disabilities Certification for Certified Teachers - Post Degree Certification - Embanet-Compass Knowledge Group Inc. (Pearson)

13.1202 Elementary Education and Teaching - Certificate - Elementary Certification - Post Degree Certification - Embanet-Compass Knowledge Group Inc. (Pearson)

13.1205 Secondary Education and Teaching - Certificate - Secondary Certification - Post Degree Certification - Embanet-Compass Knowledge Group Inc. (Pearson)

## Institutional Status and Requirements Worksheet

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13.1210 Early Childhood Education and Teaching - Associate - Early Childhood Education - AA - Embanet-Compass Knowledge Group Inc. (Pearson)

13.1210 Early Childhood Education and Teaching - Certificate - Early Childhood Assistant Educator - Certificate - Embanet-Compass Knowledge Group Inc. (Pearson)

13.1210 Early Childhood Education and Teaching - Associate - Early Childhood Studies - AAS - Embanet-Compass Knowledge Group Inc. (Pearson)

24.0101 Liberal Arts and Sciences/Liberal Studies - Associate - Liberal Arts - AA (General Pathway) - Embanet-Compass Knowledge Group Inc. (Pearson)

24.0101 Liberal Arts and Sciences/Liberal Studies - Associate - Liberal Arts - AA (History Pathway) - Embanet-Compass Knowledge Group Inc. (Pearson)

24.0101 Liberal Arts and Sciences/Liberal Studies - Associate - Liberal Arts - AA (English Pathway) - Embanet-Compass Knowledge Group Inc. (Pearson)

24.0102 General Studies - Associate - General Studies - AGS - Embanet-Compass Knowledge Group Inc. (Pearson)

51.0707 Health Information/Medical Records Technology/Technician - Associate - Health Information Technology - AAS - Embanet-Compass Knowledge Group Inc. (Pearson)

51.0713 Medical Insurance Coding Specialist/Coder - Certificate - Medical Billing and Coding Certificate - Embanet-Compass Knowledge Group Inc. (Pearson)

52.0101 Business/Commerce, General - Associate - Business - AAS - Embanet-Compass Knowledge Group Inc. (Pearson)

52.0101 Business/Commerce, General - Associate - Business Admin - ABUS - Embanet-Compass Knowledge Group Inc. (Pearson)

52.0201 Business Administration and Management, General - Certificate - Basic Business Certificate - Embanet-Compass Knowledge Group Inc. (Pearson)

52.0201 Business Administration and Management, General - Certificate - Advanced Business Certificate - Embanet-Compass Knowledge Group Inc. (Pearson)

52.0203 Logistics, Materials, and Supply Chain Management - Certificate - Basic Logistics and Supply Chain Management Certificate - Embanet-Compass Knowledge Group Inc. (Pearson)

52.0203 Logistics, Materials, and Supply Chain Management - Associate - Logistics and Supply Chain Management - AAS - Embanet-Compass Knowledge Group Inc. (Pearson)

52.0301 Accounting - Certificate - Accounting: Bookkeeping Certificate - Embanet-Compass Knowledge Group Inc. (Pearson)

52.1001 Human Resources Management/Personnel Administration, General - Certificate - Human Resources Certificate - Embanet-Compass Knowledge Group Inc. (Pearson)

**Recommended Change: no change**

# **EXHIBIT 4**

# PimaCountyCommunityCollegeDistrict Governing Board Bylaws

## Contents

<i>Bylaw Title</i>	<i>Article Number</i>
Authority	Article I
Membership	Article II
Representatives to the Board	Article III
Officers	Article IV
Duties of Officers	Article V
Meetings	Article VI
Committees	Article VII
Discrimination Prohibited	Article VIII
Amendment of Bylaws	Article IX
Code of Ethics	Article X
Orientation of New Members	Article XI
Response to Complaints	Article XII

Reflecting action by the Governing Board as of February 7, 2018.



# Pima County Community College District Governing Board Bylaws

<i>Bylaw Article Title:</i>	<b>Authority</b>
<i>Bylaw Article Number:</i>	I
<i>Adoption Date:</i>	11/15/78; 12/11/13; 10/19/16
<i>Revision Date(s):</i>	12/9/13; 10/19/16
<i>Motion Number:</i>	1513; 201610-05
<i>Legal Reference:</i>	A.R.S. §§ 15-1444 and 15-1445

Section 1. The Governing Board (the "Board") of the Pima County Community College District (the "College") is the legally constituted and final authority for the operation of the College. In addition to those duties mandated by statute, the Board shall perform the following functions:

1. Determine the mission of the College and, based upon the mission, formulate College priorities;
2. Determine criteria for evaluating the success of the College in attaining Board-approved priorities. Evidence-based results for each priority will be measured and reported annually by the Chancellor of the College (the "Chancellor") in accordance with a schedule set by the board or his or her designee.
3. Adopt bylaws for the Board and Board Policies to govern the College.
4. Select a model of governance that will meet the needs of the College and the community it serves.
5. Establish limitations for and delegation of authority to the Chancellor of the College. The Chancellor shall serve as the Chief Executive Officer of the College.

6. Oversee and annually evaluate the Chancellor.

Section 2. In its role as a liaison between the College and the public, the Board shall perform the following functions:

1. Interpret the College mission, goals, and programs to the general public; and
2. Define and support the interests and needs of the College to all levels of government.

Section 3. All powers of the Board lie in its action as a public body. Individual Board members exercise authority over District affairs only by way of votes taken at a legal meeting of the Board. An individual Board member has authority only when and to the extent that the Board, by vote, has delegated such authority.

Section 4. The rules contained in the latest edition of *Robert 's Rules of Order, Newly Revised* shall govern the Board in all cases in which they are applicable and in which they are not inconsistent with the law, these bylaws, or any special rules of order the Board may adopt.



# PimaCountyCommunityCollegeDistrict Governing Board Bylaws

<i>Bylaw Article Title:</i>	<b>Membership</b>
<i>Bylaw Article Number:</i>	II
<i>Adoption Date:</i>	11/15/78; 12/11/13; 10/19/16
<i>Revision Date(s):</i>	2/8/95; 12/9/13; 10/19/16
<i>Motion Number:</i>	1514, 1515; 5300; 201610-05
<i>Legal Reference:</i>	A.R.S. § 15-1441(C); A.R.S. § 38-231

Section 1. The Board members shall be required to accept the oath of office.

Section 2. The term of office for an elected Board member is six years.



# PimaCountyCommunityCollegeDistrict Governing Board Bylaws

*Bylaw Article Title:*                   **Representatives to the Board**

<i>Bylaw Article Number:</i>	III
<i>Adoption Date:</i>	2/8/95; 12/11/13; 2/5/14; 10/19/16
<i>Revision Date(s):</i>	3/13/96; 12/9/13; 2/4/14; 10/19/16
<i>Motion Number:</i>	5300; 5452; 201610-05
<i>Legal Reference:</i>	A.R.S.§ 15-1445

There may be up to six non-voting representatives to the Board ("Board Representatives"):

- one regular faculty representative from the elected governing body (Faculty Senate);
- one adjunct faculty member (part-time) representative, selected from the Adjunct Faculty Committee;
- one regular staff representative, selected by the elected governing body (Staff Council);
- one temporary staff representative, selected by the Temporary Group;
- one administrative representative, selected by the Administrators; and
- one student representative, selected from the membership of the all-campus student-elected Student Government group.

These non-voting representatives shall serve in an advisory role to the Board.

Board representatives shall serve a one-year term commencing July 1st of each year.

Reports of Board Representatives may be given at the regular meetings of the Board and will contain brief highlights of their respective group's activities during



the preceding month and any positive recognition. Board Representatives may also comment on action items on the current agenda, include group concern(s) and offer suggestion(s) for consideration by the Board, subject to the Arizona Open Meeting Law, on a future agenda. The Board may not the merits of any such recommended action unless it is specifically listed separately on the agenda for discussion, deliberation or legal action.

Board Representatives shall not be counted toward a quorum of the Board. Nothing in this policy shall grant any right to a Board Representative.



# Pima County Community College District Governing Board Bylaws

<i>Bylaw Article Title:</i>	<b>Officers</b>
<i>Bylaw Article Number:</i>	IV
<i>Adoption Date:</i>	11/15/78; 12/11/13; 10/19/16; 2/7/18
<i>Revision Date(s):</i>	12/9/13; 2/1/16; 10/19/16; 1/18/18
<i>Motion Number:</i>	1516; 1518; 201610-05
<i>Legal Reference:</i>	A.R.S. § 15-1443

Section 1. The officers of the Board shall be the Chair of the Board and Vice Chair/Secretary of the Board. These officers shall perform the duties prescribed by law, these bylaws and by the parliamentary authority adopted by the Board.

Section 2. The Board shall nominate and elect officers for a term of two years at the annual meeting (Article VI, Section 3). Board members shall rotate through these offices based on their original swearing-in date. Exceptions can be made to this section by majority vote.

Section 3. Vacancies for the unexpired term of an officer shall be filled by the Board at any regular or special meeting.



# Pima County Community College District Governing Board Bylaws

<i>Bylaw Article Title:</i>	<b>Duties of Officers</b>
<i>Bylaw Article Number:</i>	V
<i>Adoption Date:</i>	11/15/78; 12/11/13; 10/19/16
<i>Revision Date(s):</i>	2/8/95; 12/9/13; 10/19/16
<i>Motion Number:</i>	1519; 5300; 201610-05
<i>Legal Reference:</i>	A.R.S. §§ 15-1443 and 15-1445

Section 1. The Chair of the Board shall perform the following duties:

1. In consultation with the Board and the Chancellor, plan the work of the Board and set Board priorities;
2. Preside at all meetings of the Board when possible;
3. Sign contracts and other official documents in the name of the Board when authorized by the Board or statute;
4. Ensure that the Board undertakes and completes a yearly self-evaluation prior to the conclusion of the Chair's term;
5. Sign communications from the Board, such as holiday greetings or acknowledgements of achievement or contributions of individuals or entities to the College.
6. Serve as or designate a Board member to represent the Board on occasions prescribed by law, state regulations or when assigned to do so by the Board;
7. Perform such other special duties as shall be prescribed by law or as vested

in the Board Chair by the Board;

8. Act as the official spokesperson for the Board in ceremonial events.

Nothing in this section precludes individual Board members from attending ceremonial events or expressing their own opinions.

Section 2. The Vice Chair/Secretary of the Board shall perform the following duties:

1. Sign the minutes and records of meetings of the Board and such other documents as directed by the Board;
2. In the absence of the Board Chair preside at Board meetings and, by action of the Board empowering the Vice Chair/Secretary, assume responsibilities vested in the Board Chair;
3. Perform such other special duties as shall be prescribed by law, determined by lawful regulations or delegated to the Vice Chair/Secretary by the Board.

Section 3. During a temporary absence of the Vice Chair/Secretary of the Board, the Board member present with the longest service on the Board shall fulfill the obligations of the Vice Chair/Secretary.

In the absence of both the Chair and Vice Chair/Secretary of the Board, the Board members present with the longest service shall be empowered by the Board to perform the duties of the Board Chair and Vice Chair/Secretary, respectively until a quorum of the Board has the opportunity to convene to elect a Board Chair and Vice Chair/Secretary.



# Pima County Community College District Governing Board Bylaws

<i>Bylaw Article Title:</i>	<b>Meetings</b>
<i>Bylaw Article Number:</i>	VI
<i>Adoption Date:</i>	11/15/78; 12/11/13; 2/5/14
<i>Revision Date(s):</i>	11/21/79; 2/18/81; 5/18/83; 4/19/89; 2/8/95; 9/21/11; 12/9/13; 1/14/14; 10/19/16; 11/2/17
<i>Motion Number:</i>	1520; 1522; 1944; 2418; 3296; 4405; 5300; 201610-05
<i>Legal Reference:</i>	A.R.S. § 15-1443(B); A.R.S. § 38-431 through 38-431.03

Section 1. A “meeting” is a gathering, in person or through technical devices, of a quorum of the Board members at which they discuss, propose, or take legal action, including any deliberations by a quorum with respect to such action. “Legal action” means a collective decision, commitment or promise made by the Board pursuant to the law, these bylaws, or specified scope of appointment. Board members may participate telephonically.

Section 2. The regular meetings (as specified in A.R.S. § 15-1443) shall be held on the second Wednesday of every month at such time and place as the Board determines, unless otherwise ordered by the Board.

Section 3. Special meetings may be held at the request of the Chancellor, the Board Chair or upon request in writing by two Board members. The purpose of special meetings shall be to transact business or to study and discuss issues brought to the Board. A Study Session is a special meeting.

Section 4. In January of each year, the Board shall hold an annual meeting, as specified by A.R.S. § 15-1443(B), for the purpose of electing officers and conducting such other business as may be necessary. The annual meeting will be

the first Governing Board meeting in January, unless the Chancellor and Board Chair designate a different January meeting as the annual meeting. The Board may also select representatives to various organizations and discuss the parameters of that appointment.

Section 5. A majority of all members of the Board, including those present telephonically, shall constitute a quorum for purposes of a meeting. A majority vote of the Board members present, including those present telephonically, shall be required for any legal action to be taken.

Section 6. The agenda and order of business for regular and special meetings shall be determined by the Chair and the Chancellor. Each meeting shall commence with a call to order, pledge of allegiance, and a roll call of members present. An agenda may include a “consent agenda” of items that will not require discussion prior to action. Upon request of any board member at the meeting, an item may be removed from the consent agenda in order to allow discussion. An agenda will also include items for future board meetings, but if a board member proposes an item for future discussion, there shall be no debate on the substance of the proposed item until a future meeting when discussion or action on the proposed item is listed on the agenda.

Section 7. If the agenda includes an open call to the public (“Public Comment”), the following procedures shall apply during that part of the meeting:

- Any individual desiring to address the Board shall complete a form (Request to Address Board) and give this form to the designated College staff person prior to the start of the Public Comment.
- The Board Chair shall be responsible for recognizing speakers, maintaining proper order, and adhering to any time limit set.
- If considered necessary, the Board Chair shall set a time limit on the length of the Public Comment period. In order to ensure that each individual has an opportunity to address the Board, the Chair may also set a time limit for individual speakers.
- Upon conclusion of the Public Comment section of the meeting, individual members of the Board may respond to any criticism made by an individual who has addressed the Board, may ask staff to review a matter or may ask that a matter be put on a future agenda.

- Board members may not discuss or take legal action on matters raised during the Public Comment section of the meeting unless the matters are properly noticed for discussion and legal action.

Section 8. Any Board member can request agenda items by forwarding them to the Board Chair and the Chancellor. Alternatively, at a Board meeting, a Board member may request that an item be placed on a future agenda, as set forth in Section 6 above or in response to comments made in the Public Comment portion of the meeting, as set forth in Section 7 above.

Section 9. For each agenda action item other than routine status reports by Board representatives, Board members, or the Chancellor, there shall be a corresponding action item description that includes background, a recommendation, legal and financial impacts or the recommended action, a justification for action, and other pertinent information. In the case of a contract or agreement to be acted upon by the Board, the proposed language of the contract or agreement shall also be included. Staff, as designated by the Chancellor, shall prepare and submit the action item description and accompanying materials.

Section 10. The agenda, agenda items, and supporting materials shall be distributed to members of the Board and posted online no later than five calendar days in advance of the meeting. Additional and supplemental supporting materials shall be provided to the Board members and posted online at least 24 hours prior to the meeting unless the Board Chair, in the Chair's discretion, approves submission less than 24 hours prior to the meeting or in the case of an actual emergency. All supporting or backup materials for an agenda item, including proposed language of contracts or agreements to be acted upon by the Board, shall be available in the District office and/or linked on the posted agenda by hyperlink. Supporting or backup materials include, but are not limited to, the following: power points, contracts or agreements to be acted upon, and relevant reports if they are referred to in the presentation to the Board. No supporting or backup materials may be presented to or considered by the Board at a meeting if this section is not complied with. The Chair, in the Chair's discretion, may postpone consideration of an agenda item if the provisions of this section are not complied with.

Section 11. Board members and the Chancellor may present a brief summary of current events if a summary is listed on the agenda. In such event, specific matters to be summarized are not required to be separately listed on the agenda. The Board may not propose, discuss, deliberate, or take legal action at that meeting on any matter in the summary unless the specific matter is properly noticed for discussion, deliberation or legal action to be taken by the Board.

Section 12. The Chancellor, or his or her designee, shall attend each regular and special meeting of the Board for the purpose of presenting business items, making recommendations, and reporting on items pertaining to the College

Section 13. Minutes or a recording of the public portion of a meeting shall be available for public inspection three working days after a meeting. Minutes of regular Board meetings will be approved at the next regular Board meeting. Minutes of special meetings shall come to the Board for approval as soon as possible, and not later than sixty (60) calendar days. With the exception of executive session minutes, minutes shall be posted to the College website following approval.

Section 14. The following procedural rules of order apply to motions made by Board members and shall govern the conduct of meetings of the Board:

- All motions require a second before the Board proceeds to a discussion or a vote.
- The Board Chair may make or second any motion and may discuss or vote on any motion.
- Motions may be amended without a vote if the Board member who made the original motion and the Board member who seconded the motion agree to the amendment. Absent agreement, there must be a vote on substitute motion and a second. If the substitute motion passes, it overrides the previous motion.
- All discussion on an agenda item by Board members shall occur after there is a motion and a second.
- The Chair shall endeavor to recognize Board members by name in the course of the meeting in order to ensure orderly discussion and action and assist members of the public who access the Board meeting remotely to identify which Board member is speaking.
- Unless otherwise permitted by the Chair in the Chair's discretion, when a member has spoken once on a question, the member shall not be recognized again on the same question until after other Board members who wish to speak have spoken.



- A motion to table a matter requires a motion, a second, and a vote by a majority of the Board members in favor of tabling the matter. A motion may be taken from the table at any time.
- A motion to close or limit debate or call the question (also known as call the previous question) requires a second and an affirmative vote of the members present.
- A motion for reconsideration of a previous action taken by the Board must occur no later than by the end of the next regularly scheduled meeting of the Board and may only be made by a Board member who voted in favor of the previous action. A motion for reconsideration may be seconded by any Board member. No question may be reconsidered one than once.
- At any time during a meeting, a Board member may make a motion to adjourn, which shall require a second and an affirmative vote of the majority of the Board members present. Such a motion can be made even if the Board has not considered all items on the agenda for that meeting. In such event, any matters that have not been considered, shall be placed on the agenda for the next regularly scheduled meeting of the Board.

To the extent any of these rules of order may conflict with *Robert's Rules of Order, Newly Revised*, these rules shall apply. The rules contained in this section are procedural in nature and, with the exception of the requirement of a second to a motion, may be waived without affecting the validity of the action taken.



# PimaCountyCommunityCollegeDistrict Governing Board Bylaws

<i>Bylaw Article Title:</i>	<b>Committees</b>
<i>Bylaw Article Number:</i>	VII
<i>Adoption Date:</i>	11/15/78; 12/11/13
<i>Revision Date(s):</i>	2/18/81; 5/18/83; 12/9/13; 10/19/16
<i>Motion Number:</i>	1523; 2418; 3296; 201610-05
<i>Legal Reference:</i>	A.R.S. § 15-1445; A.R.S. §§ 38-431(1) and 38-431.01.

Section 1. The Board may establish advisory committees (“Board Advisory Committee”) for the study of particular issues, functions or areas or for the purpose of making a recommendation concerning a decision to be made or considered or a course of conduct to be taken or considered by the Board.

Section 2. Each Board Advisory Committee shall have a Board approved charter that outlines its mission and function and shall operate, at all times, according to that charter.

Section 3. A Board Advisory Committee shall not have the authority to bind the Board. Any recommendations the advisory committee makes to the Board shall be approved by a majority of the members of the advisory committee.

Section 4. A Board Advisory Committee shall comply with the requirements of the Arizona Open Meeting Law and Public Records Laws.

Section 5. Membership on a Board Advisory Committee may include one or two Board members and may include employee representatives, students and community members. The Chancellor may also appoint a key employee to assist a committee in completing its duties.

Section 6. Members of advisory committees, created by the Board, shall be appointed by the Board. If a Board member is on a committee, the Board member's length of service on the committee shall be determined by the Board.

Section 7. Except as provided in this article, all advisory committees shall meet at least two times annually, more if necessary. They shall report to the Board no later than the May Board meeting, at a time desired by the Committee or one requested by the Board.

Section 8. The Board may at any time discontinue any of its advisory committees by majority vote.



# PimaCountyCommunityCollegeDistrict Governing Board Bylaws

<i>Bylaw Article Title:</i>	<b>Discrimination Prohibited</b>
<i>Bylaw Article Number:</i>	VIII
<i>Adoption Date:</i>	11/15/78; 12/11/13
<i>Revision Date(s):</i>	3/8/95; 12/9/13; 10/19/16
<i>Motion Number:</i>	1526; 5319; 201610-05
<i>Legal Reference:</i>	Title VI & VII of the 1964 Civil Rights Act (and as amended); Title IX of the Education Amendments of 1972; Executive Order 11246 (and as amended); Age Discrimination in Employment Act of 1975; Rehabilitation Act of 1973, Sections 503 & 504 (and as amended); Vietnam Era Veterans Readjustment Act of 1974; Americans with Disabilities Act of 1990; Equal Pay Act of 1963; Arizona Civil Rights Act of 1965; Uniformed Services Employment and Reemployment Rights Act of 1994; A.R.S. §§ 26-167 and 168

In its role as a governing body, the Board shall not discriminate on the basis of race, color, religion, sex, national origin, age, disability, sexual orientation, gender identity or any status protected by law.



# PimaCountyCommunityCollegeDistrict Governing Board Bylaws

*Bylaw Article Title:*                   **Amendment of Bylaws**

*Bylaw Article Number:*               IX

*Adoption Date:*                       11/15/78; 12/11/13

*Revision Date(s):*                   2/8/95; 12/9/13; 10/19/16

*Motion Number:*                   1527; 5300; 201610-05

*Legal Reference:*                   A.R.S. §§ 1-216; 15-1445

Section 1. These bylaws may be amended by a vote of the majority of a quorum of the Board at any regular or special meeting called for that purpose with the following stipulations. Notice of intent to amend the Bylaws shall be made by the Chair of the Board at a previous regular meeting. Each member of the Board shall have been provided with a copy of the proposed amendment(s) to be acted upon at least 10 days prior to the meeting at which the Bylaws are proposed to be amended.

Section 2. The Board shall review the Bylaws at least every three years and may, amend these Bylaws at any time.



# Pima County Community College District Governing Board Bylaws

<i>Bylaw Article Title:</i>	<b>Code of Ethics</b>
<i>Bylaw Article Number:</i>	X
<i>Adoption Date:</i>	5/18/83; 12/11/13; 2/5/14
<i>Revision Date(s):</i>	2/8/95; 12/9/13; 1/28/14; 10/19/16
<i>Motion Number:</i>	3297; 5300; 201610-05
<i>Legal Reference:</i>	A.R.S. §§.15-1444(A) and 15-1445; A.R.S. §§ 38-431.01 and 38-501 et seq.

## Section 1. General

Elected or appointed members of the Board are representatives of the citizens of the county.

The Board commits itself to the very highest legal and ethical conduct.

## Section 2. Legal Powers and Duties

1. Carry out all requirements prescribed by local, state and federal laws, as they apply.
2. Operate within the guidelines set forth by the College’s accrediting agencies.
3. Comply with Board Bylaws and Policies

## Section 3. Ethical Responsibilities

The Board shall:

1. Recognize its duty is to represent the entire county and to make decisions, which can benefit all constituents. Individual Board members should recognize the unique aspects of their geographic constituency when considering the needs of the entire College.
2. Recognize that the strength and effectiveness of the Board is as a Board, not as a group of individuals.
3. Assure the opportunity for high quality education for every student, within the fiscal limitations of the College.
4. Take official actions only in public sessions in compliance with the law.
5. Maintain confidentiality of privileged information.
6. Recognize the unique contributions of representatives to the Board in the Board's deliberation of agenda items.
7. Delegate authority to the Chancellor as the Board's executive and confine Board action to oversight policy determination, priority setting, planning, monitoring, evaluation of College performance, and maintenance of the fiscal stability of the College. Delegation to the Chancellor of the authority to approve contracts and procurements shall be by legal action of the Board, which shall specify the scope and parameters of delegated authority.
8. Employ competent, trained personnel.
9. Ensure an atmosphere in which controversial issues can be presented and discussed fairly and civilly, striving to maintain the dignity of each individual.
10. Respect the elected office and in no way misuse the power inherent in the office.
11. Recognize the responsibility to adhere to these ethical responsibilities.

Section 4. Conflict of Interest

Any board member who has, or whose relative has, a substantial interest in any decision, contract, sale, purchase or service to the College shall make known that interest in the official records of the College and shall refrain from voting upon or otherwise participating in any manner in such decision, contract, sale or purchase, as

more particularly set forth in A.R.S. § 38-501 et seq.

Section 5. Procedural Responsibilities

In keeping with the Governing Board's bylaws and policies, the Board asserts its responsibilities and:

1. Requests all employees to avail themselves of all administrative remedies and complaint resolutions procedures before requesting Board involvement.
2. Provides an opportunity for public comment at its regular meetings: for the general public, through the Public Comment section of the meeting and for employees, through representatives' reports. Unless the public comment and information contained in the reports relates to agenda items, Board action is limited to directing staff to study and/or to schedule the matter for future consideration.
3. Recognizes the First Amendment freedom of speech principle as fundamental to the operation of the College. No College employee shall be subjected to retaliation by the College for expressing his/her opinion in open meetings of the Board.
4. Asks that requests for information about Board actions be submitted through the Chancellor's Office.
5. Acknowledges the importance of employee and student understanding Governing Board members' roles and functions. To promote such understanding, the Governing Board affirms the following:
  - a) It is the policy of the Governing Board that the administration, faculty, staff and students of the College have the opportunity to participate, as appropriate, in the decision-making processes of the College.
  - b). The Governing Board acknowledges its responsibility to meet Arizona legal requirements regarding open meetings for public bodies.
  - c). All employees of the College are advised that the hiring, assigning, transferring, terminating or disciplining of employees will be handled according to established personnel policies through the office of Human Resources.
  - d). The Board acknowledges that its authority is legally vested only when



the Board acts as a whole and that, as individuals, the members of this Board have no authority to mandate action on the part of the College. This policy shall, however, in no way restrict individual Board members from full and complete access to all of the campuses of the College and to a complete range of inquiry to the Chancellor. The Chancellor will obtain information from the College employees and students so that the Board may be more fully informed and may properly exercise its responsibilities.

The following protocols apply:

- i) Board members shall inform the Chancellor and the campus President prior to attending any meeting, function or visit at that campus or at one of its centers.
- ii) While on a College site, Board members shall not conduct personal or political business using any College resources.
- iii) Information requests that will involve more than four hours of College staff time, per request, shall require the agreement of a majority of the Board.
- iv) Board members shall not use College resources for personal or political benefit that are not otherwise available to members of the public.



# Pima County Community College District Governing Board Bylaws

*Bylaw Article Title:*                    **Orientation of New Members**

*Bylaw Article Number:*                XI

*Adoption Date:*                        1/10/90; 12/11/13

*Revision Date(s):*                    5/14/90; 12/9/13; 10/19/16

*Motion Number:*                      4602; 4669; 201610-05

*Legal Reference:*                      A.R.S. § 15-1445

Section 1. The Board shall hold an orientation session for new members of the Board within sixty (60) days of their election or appointment to the Board.

Section 2. Orientation sessions shall include the following:

1. General overview of the College, its programs, services and operations.
2. Role, responsibilities, and function of the Board and its members, including, but not limited to, familiarity with Board bylaws and policy.
3. Principles of Board decision making.
4. Board/Chancellor relations.
5. Ethical standards.
6. Response to complaints.
7. Board appointments.
8. Overview of auditing bodies and board committees.

9. Laws that apply to the conduct of the business of the College, such as the Open Meeting Law, public records laws, confidentiality, FERPA, and laws that prohibit discrimination.



# Pima County Community College District Governing Board Bylaws

*Bylaw Article Title:*                    **Response to Complaints**

*Bylaw Article Number:*                XII  
*Adoption Date:*                        12/11/13  
*Revision Date(s):*                      10/19/16  
*Motion Number:*                        201610-05  
*Legal Reference:*                        A.R.S. § 15-1445

## Section 1. General

To promote the timely and appropriate response to complaints regarding the College and to maintain the appropriate distinction between the roles of the Board and College administration, Board members shall follow specific processes for responding to different types of complaints, as set forth below.

## Section 2. Definition of a Complaint

For purposes of the complaint reporting processes described in this Article of the Bylaws, a “complaint” shall mean an allegation that there has been a violation of applicable federal law, state law, accreditation requirement, ethical standard, or published College bylaw, policy or standard.

## Section 3. Process for Handling Specific Types of Complaints

1. In the case of a complaint of a general nature, the Board and individual Board members shall:
  - a. Avoid pursuing questions into the details of the substance of a complaint that could ultimately come before the Board for a decision regarding the

application of a College policy to a specific individual (e.g. an employee grievance of an adverse personnel action).

- b. Urge the complainant to use existing College procedures for resolving concerns. If the complainant deems existing College procedures inadequate, urge the complainant to make specific corrective recommendations to those procedures to the Chancellor.
- c. Refer the complaint to the Chancellor, and may refer the complainant to the Office of the Chancellor.

The Chancellor shall confirm to the Board that the complaint has been received and inform the Board how the complaint has been or will be addressed and resolved.

2. In the case of a complaint about the conduct of the Chancellor:

- a. The recipient of the complaint (including individual Board members) shall notify the Board Chair and College legal counsel of the complaint, who shall notify all Board members.
- b. The Board shall determine in consultation with College legal counsel whether the allegations, if accurate, would constitute a violation of applicable law, College policy, the terms of the Chancellor's contract, or any other applicable standards of conduct or performance.
- c. If the alleged conduct would qualify as such a violation, the Board shall determine in consultation with College legal counsel the most appropriate means for conducting unbiased fact finding, which might include outside professional services.
- d. The Board shall take appropriate corrective action as warranted by the results of fact-finding and consistent with due process.
- e. The Board, or its representative, shall provide notice of resolution to the complainant.

3. In the case of a complaint about the conduct of a Board Member:

- a. The recipient of the complaint (including individual Board members) shall notify the Board Chair, Chancellor and/or College legal counsel of the complaint, who shall notify all Board members.
- b. The Board shall determine in consultation with the Chancellor and College legal counsel whether the allegations, if accurate, would constitute a violation of applicable law, College policy, or any other applicable standards of conduct or performance.
- c. If the alleged conduct would qualify as such a violation, the Board shall determine in consultation with the Chancellor and College legal counsel

the most appropriate means for conducting unbiased fact finding, which might include outside legal counsel and/or outside professional services.

- d. To the extent allowed by law, the Board shall take appropriate corrective action as warranted by the results of fact-finding.
- e. The Board, or its representative, shall provide notice of resolution to the complainant.

# **EXHIBIT 5**

**Governing Board Special Meeting (Monday, March 28, 2022)**

## 1. SPECIAL MEETING

**Procedural: 1.1 Call to Order, District Office, Room C105**

Chairperson Ripley called the meeting to order at 12:33 p.m.

## 2. Discussion

**Discussion: 2.1 Peer reviewers from the Higher Learning Commission will be meeting with the PCC Governing Board to discuss accreditation matters.**

Chairperson Ripley introduced Dr. Benjamin Young and Dr. Ron Ramming, two peer-reviewers from the Higher Learning Commission (HLC).

HLC assigned Dr. Young and Dr. Ramming to get additional feedback today from the Board members and employees of the college after HLC received several complaints against Pima Community College.

Dr. Young's first question to the Board was what major events brought the Board before the peer reviewers today.

Chairperson Ripley responded by saying that the Board is here today because there were letters written to HLC by two Board members requesting that something be done by HLC.

Dr. Young clarified that HLC received a total of five different complaints with similarities. Although the College wrote a thorough response to the complaints, HLC recommended that a visit was necessary and assigned a team to come onsite to collect feedback on the Criteria 2C core component.

There was a discussion between Dr. Young and Chairperson Ripley about the number of letters written and the nature of the complaints. Dr. Young said there were similarities to the first couple of complaints and one was supplemental to the first complaint. Then there were two individual complaints dealing with a former employee. The other two dealt with a community advocacy group and then with a member of the Board; there was a supplemental document to that one specifically. Dr. Young added that HLC received two additional letters regarding a member of the Governing Board and one written by a former employee. Dr. Young noted that he and Dr. Ramming identified four areas of focus that could address all of the concerns in the five letters.

Board member Garcia offered to speak first. Ms. Garcia noted she received complaints from community members about the Board not being autonomous in decision-making and allowing people outside of the college to influence Board members. Ms. Garcia reported personally receiving complaints from community members and reminded the Board that members of the community are the Board's constituents. Ms. Garcia alleges that one of the Board members received a complaint in February, conducted an investigation, and responded to the complaint without informing the other members of the Board. She noted that the relationship between the College and Board is not transparent. She reported that this particular Board member did not follow the process and she is concerned that the Chair, Vice-Chair, and Chancellor are making decisions alone.

At this point, Dr. Young felt the discussion was getting off track. Dr. Young suggested having the group move on to the next question. He reminded the group that HLC assigned the peer-reviewers to gather facts. Dr. Young asked Chairperson Ripley if the Board members could be more "succinct" in their responses because there were several questions to get through.

Board member Gonzales asked if the majority of the complaints were from employees. Chairperson Ripley noted that she and possibly the other members of the Board are confused about the number of complaints HLC received. Ms. Ripley explained that the Board is aware of three letters, not five. Dr. Young clarified that the Chancellor and ALO (Accreditation Liaison Officer) received two additional letters on either March 11 or March 18. Ms. Ripley noted that because the Board only meets once a month, and their next Board meeting is in April, the Board has not been able to discuss additional letters. Ms. Ripley also noted that for any complaints or concerns that come to Board members, their first obligation is to forward them to the Chancellor, the Board's single employee. The Chancellor then sends them to the correct leadership team member, perhaps Legal Counsel, Deans, Human Resources, or Office of Dispute Resolution. Ms. Ripley said she believes that all Board members are following the process, but if someone here is questioning this, we need to address it.

Board member Clinco noted that the initial question from the peer-reviewers is asking why the Board is here today. Mr. Clinco said that over the past two years, the Board has been experiencing some divisiveness. He added that there are problems with some individual Board members not following the policies and procedures that the institution has established, and he noted that the complaints are an example of that. Mr. Clinco said there were complaints brought forward that did not go through the proper process. He added that the Board is working very hard to provide professional development training to Board members about the complaint process. There continues to be disagreement as to how the Board handles complaints; this has divided the Board. He noted that some Board members were unsatisfied with the College's investigated complaints. These particular Board members have taken it upon themselves to send letters to HLC and other state agencies. Mr. Clinco said the Board is here today because they have reached a level of dysfunction. Mr. Clinco believes the Board is still functioning based on the core components, but individual Board members are not following the procedures and policies of the institution; this is leading to the Board being out of compliance with HLC.

Board member Gonzales asked to comment on the Board's divide. Mr. Gonzales feels that he and Ms. Garcia ask questions to be informed and that the Board needs to learn to listen because they are the voices of the community. Mr. Gonzales prefers to follow a schedule and does not like surprises. Mr. Gonzales does not blame himself for the problems of the Board's divide and dysfunction; it is the cause of the entire Board. He noted that he is an elected member of his community and speaks on behalf of his constituents, asking difficult questions that may impact [sic] stakeholders, children, and families.



Chairperson Ripley responded to Mr. Gonzales' comments. Ms. Ripley stated that the Board has meetings once a month and allowed at least a week to review all the documents, presentations, and action items prepared for the Board meetings. Ms. Ripley noted that she has never once joined an Executive Session or Regular Board meeting ever feeling she did not have enough information. Ms. Ripley added that she has no proof there is secret information given to only some Board members. Ms. Ripley said that the Board should think individually but act collectively [sic]. Ms. Ripley noted that, in most cases, the Executive Session meetings are civil; the Board seems to agree on most issues. However, at some public meetings, the Board members have been surprised by what two Board members discuss during the Regular meetings; their comments sometimes go against Executive Session discussions. Ms. Ripley pushed back on some of Mr. Gonzales' comments regarding service to their communities. She said ALL Board members serve their communities. She noted that some of the other Board members are retired, volunteer their time to serve their communities, and care very much about the families in their communities.

Dr. Young asked about professional development activities among Board members. He asked about who determines what professional development activities the Board needs. Is the Board's decision exclusively, in collaboration with the Chancellor, or everyone?

Chairperson Ripley described the intense Board member onboarding process, which involves two days of meeting with different members of leadership and departments to become familiar with the College. Ms. Ripley also mentioned that the College offered her many opportunities for professional development with subjects on how to be a good Governing Board member. Some examples of the training were through the Association of Community College Trustees (ACCT) and the Association of Governing Board (AGB), for instance. Ms. Ripley said that, during the pandemic, Board members had access to reading materials and virtual conferences. Ms. Ripley added that the Board holds an annual retreat during which Board members meet together for two days to discuss the strategies and goals for both the Governing Board and Chancellor. Ms. Ripley mentioned that recently we retained the services of AGB to help us "be the best Board we can be."

Dr. Young mentioned that the Board provided good evidence of professional development but asked how the Board decides what professional development activities are needed. What does the Board do specifically to make these decisions?

Board member Garcia responded by saying that she feels the Chancellor makes those decisions for the Board. Ms. Garcia agrees with Ms. Ripley about the opportunities available for Board members but disagrees with the agreement recently to bring in AGB. She reminded the Board that ACCT came to the College to provide professional development training for the Governing Board to tell them how to be better board members. Ms. Garcia said the Board did not vote on this. She believes the Chancellor and Chairperson agreed on it without the Board's knowledge. She said this decision was misleading because she was under the impression that it was Board development, but then the Board was told it was to prepare the Board for the HLC visit. Ms. Garcia believes it was an intrusion into a process already in place. Ms. Garcia was confused about what AGB could do to help with the HLC visit. Her concern was that "they" brought in AGB attempting to align the Board members with what they are doing. Ms. Garcia added that it was decided to ask Narcisa Polonio, formerly with ACCT, to speak to the Board members individually, but that Ms. Garcia had not agreed to it.

Ms. Garcia directed her next question to Board members and asked if they voted for all of this. Chairperson Ripley responded by saying that the Board did agree and that bringing in these organizations was only to help the Board and that there was never an ulterior motive. Ms. Ripley said Ms. Polonio interviewed each Board member individually, determining how the Board could work as one. Ms. Ripley added that the Board is trying to be better and that she does not understand why Ms. Garcia thinks that something insidious is going on.

Board member Hay added that she has been in education for a long time and always looks for improvement opportunities. She reported that when the idea came up to bring in AGB to help the Board collectively, she thought it was a great idea. Dr. Hay said that she remembered Ms. Garcia saying here we go again when the Board decided to bring in AGB. Dr. Hay said not all Board members voted to bring in AGB but that it was a good idea.

Board member Garcia added that the Chancellor is the one who recommended the services of AGB. Dr. Hay responded by saying that the Chancellor knows who to go to for advice, input, and development. The Chancellor knows the field and knows who to go to for advice on becoming better Board members. The Board asked the Chancellor if they should bring in ACCT or AGB. The group decided on AGB. Dr. Hay said it made perfect sense to do that.

Board member Clinco added that each Board member attends conferences at ACCT and HLC. In addition to that, the Board brought in ad hoc educational opportunities. For example, there seemed to be a misunderstanding of HLC's role, the duties of the ombudsman, and the complaint process. Mr. Clinco explained that the Board had a Special Meeting with the HLC Liaison and State Ombudsman to provide additional education. Over time, as issues began to emerge, the Board Chair and Chancellor would bring them up to the Board to help find someone to provide additional education.

Chairperson Ripley added that there are only a limited number of professional development organizations to assist, and the Board has used most of them. The Board also uses the services of outside counsel for assistance. For example, the Board hired an attorney to assist with reviewing the Board bylaws. She added that going to the Chancellor for suggestions was the right thing. There was nothing insidious about asking AGB to help. Ms. Ripley noted that AGB wrote a very objective report on what the Board needs to do. It did not go anywhere beyond that.

Dr. Young suggested moving on to the next question related to personnel and Human Resources. Dr. Young asked if the Board is the only entity that can make full-time faculty and staff appointments at PCC. The Board members seemed confused with the question and asked Dr. Young to restate the question. Dr. Young asked if this Board is the responsible body for making appointments for full-time faculty and staff.

Chairperson Ripley first responded with no and asked if this question had to do with hiring. Dr. Young responded with yes and asked if the Chancellor makes recommendations to the Board. Board member Clinco said the final contracts are approved, as part of the consent agenda, on an annual basis as a recommendation from the Chancellor. Mr. Clinco added that the Board is not involved in the day-to-day aspect of any hiring. Dr. Young noted that he was hopeful that this one question was to be simple to answer, but it seems

like it is not. He added that in the HLC response, the College spelled out very clearly the processes and procedures for hiring employees, contract renewals, and dates the Board takes action. Mr. Clinco added that the Board does not sit on any hiring committees or interview anyone. Contracts come to the Board on an annual basis for final Board approval. Dr. Young said he is trying to ascertain that the Board has final approval.

Board member Garcia responded by saying the Board does not have final approval. Dr. Young asked her to clarify briefly. Ms. Garcia said that the College hired an HR person recently. There were several interviews and the Board had the opportunity to view forums to find out about the candidates' qualifications. Ms. Garcia believes Dr. David Bea, Executive Vice Chancellor for Finance and Administration, hired the HR person. Then that was it. She said that the yearly contracts that the Board approves include every single faculty member, but the Board does not have the last say on whom the College hires. Ms. Garcia said, for instance, that the Board did not make the final decision on hiring for the HR position. Dr. Hay responded by saying that this responsibility is delegated to the Chancellor and is not the role of the Governing Board. Board member Garcia agreed. Dr. Young's final note was that he just wanted to get to the answer.

Dr. Ramming asked what the Board's process is for handling legal matters. Chairperson Ripley responded by saying that the Board has Legal Counsel, Jeff Silvyn, and the Board goes to him for legal advice. Board member Clinco noted that if questions come up in a Regular meeting, the Board adds these items to the next Executive Session agenda and discusses them with Mr. Silvyn present. Mr. Clinco noted that things come forward to the Board members in different ways; if individual Board members have a concern, they can reach out to the Board Chair or Mr. Silvyn directly. Mr. Clinco said that all matters come through the General Counsel and the Board receives answers through Executive Session.

Board member Gonzales asked to comment. Mr. Gonzales said, about the full Board access, he does not believe what Mr. Clinco said is accurate. He believes that a couple of the complaints and grievances from ex-directors or administrators have come forth, but "we" have no knowledge of them and found out about them afterward. Mr. Gonzales disagreed with Mr. Clinco's comment about having full Board access. Mr. Gonzales noted that he is very disappointed when "we" hear information after the fact. For example, the employee is now gone and had contact with some Board members without the full Board's knowledge. Mr. Gonzales noted that this goes against policies and procedures.

Dr. Young asked the Board what they consider is the number one student success goal for the Chancellor. Board member Garcia said enrollment and graduation. Dr. Young asked the Board if he could ask the question and then wait for a response from the Board Chair for the initial Board response, then Ms. Ripley could assign a Board member to answer the question. He said this should help him get through the questions quicker. The Board members agreed.

Ms. Ripley agreed with Ms. Garcia's statement that graduating is important. She added that giving students the tools to graduate is also very important. For example, the Chancellor and Board approved providing students with laptops throughout the pandemic and access to grants to pay for tuition. Dr. Hay added that having well-paid faculty and staff available is important as well.

Mr. Gonzales asked to comment. He said that enrollment and providing resources to improve enrollment are important, but accessibility is equally important. Mr. Gonzales believes the Board needs to reach out more to the Hispanic community to increase enrollment. He has heard from administrator reports that enrollment numbers have been "spiraling down" even before the pandemic. Mr. Gonzales has asked since day one for information on specific populations of the Native American Tribes related to students and faculty. Mr. Gonzales would like to see the College more engaged in this area. Dr. Young interrupted and said that we must move on to the next question.

Dr. Young said that the peer reviewers looked at a draft of the Board's Fall 2021 to Spring 2022 Strategic Goals and Priorities. Dr. Young asked for the Board to walk them through how the Board progressed on those goals. Board member Ripley asked to see a copy of the strategic goals because it is a very in-depth document. Dr. Young provided Ms. Ripley with a copy. Dr. Young reported that the peer reviewers took note of the number one priority of strengthening Board effectiveness. Chairperson Ripley said that the Board became aware of the divisiveness and understood that something had to be done to help the Board work collaboratively. The Board also understood that they needed to be transparent. The Board decided to live-stream public meetings and have them recorded, to have documents prepared and out in the open, continue to strengthen communications and seek out professional development training. In addition, the Board has scheduled monthly study sessions to educate themselves on a wide range of topics.

Board member Clinco said that the Board strives to strengthen Board effectiveness, but they have not completely succeeded. There continues to be an issue with some Board members not entering into a dialogue with the Chancellor, on a one-on-one basis. Mr. Clinco said that the majority of the Board does this regularly. For those refusing to do so is causing a communication breakdown. This practice is preventing the Board from reaching this goal. Chairperson Ripley agrees that this is an ongoing problem and an area the Board needs to improve. Ms. Ripley believes the Board is getting there, but she is now asking the Board to please pick up the phone and give the Chancellor a call or email him. She added that the Chancellor's door is always open. Ms. Ripley believes that direct communication is pertinent.

Board member Clinco said he would like to cover the rest of the Board's priorities. Mr. Clinco feels the Board has made great progress on a number of goals. The Board is currently reviewing its bylaws with outside counsel at this time. He added that the Board has established a new Board committee to help increase enrollment. The Board continually monitors and oversees the financial aspects through monthly Board reports and through the Finance and Audit Committee. Chairperson Ripley added that the Board receives monthly financial reports in the Board packets.

Dr. Young reported that the peer reviewers reviewed the Chancellor's evaluation and saw some of the feedback. The evaluation comments said the Chancellor was working on improving one-on-one meetings with the Board.

Dr. Young asked if Board members equally have access to the Chancellor and his leadership team. Chairperson Ripley said all Board members have access to the Chancellor, but the Chair and Vice-Chair meet with him more often. She said that when she started on

the Board, she took advantage of monthly meetings with the Chancellor and sometimes met with him twice a month. She noted that all Board members have equal access to the Chancellor, but must schedule those meetings.

Board member Garcia asked to comment about having equal access to speak to the Chancellor; she agreed that they do, but when it comes to meeting with administrators, they do not. She noted that the Board must go through the Chancellor; he grants permission to meet with administrators and typically attends those meetings. Ms. Garcia reported that she was told not to contact administrators with questions but to contact Mr. Silvyn, the Board Chair, or the Chancellor.

Board member Hay added that the Board has learned through professional development that it is good Board practice to work directly with the Chancellor, their one employee. The Board does not micro-manage and does not work with the administrators. She added they the Board should not interfere or get involved with HR issues because those issues come back to the Board to adjudicate. That is why it is good Board policy to work with our one employee, the Chancellor.

Board member Garcia added that this process only works if the response they receive from the Chancellor is honest and truthful, and "they're" not putting a spin on it.

Dr. Young decided not to take a break and continued with the questioning.

Dr. Young stated that sometimes the team notices issues in the reading and some nonverbal tension. Dr. Young feels it was magnified in one report regarding some racial/social-economic or class distinctions and leaked into Board discussions. Dr. Young asked if there is a concerted effort to withhold Board leadership roles from certain members of the Board. Dr. Young and the team reviewed the history of Board members who have been Chair and Vice-Chair/Secretary and noted that some Board members have not served in different roles. Dr. Young said there was some language in the report that said there was once a one-year term then moved to a two-year slate, and, for whatever reason, the Board found this appropriate. Dr. Young asked if there is a hidden effort, a thought, a practice, or a movement to withhold membership roles from any members of the Board. Board member Ripley said, "No, absolutely not." Board member Clinco said no as well. Board member Garcia disagreed. Ms. Garcia said, at the last Board bylaw meeting, that both Mr. Clinco and Ms. Ripley stated that Board members Garcia and Gonzales should not be in any leadership positions because of certain actions they have taken. Ms. Garcia believes, based on that statement, that there are no opportunities for them. Ms. Garcia said that even when she and Mr. Gonzales made nominations, she said she felt like it was a maneuver so that certain things would happen. Ms. Garcia understands majority rules and that this is a democracy. Ms. Garcia is upset that they made these statements.

Chairperson Ripley stated for the record that she did not make that statement. Dr. Young interrupted the discussion to see if Ms. Ripley wanted to continue to poll the Board for an answer to the initial question. Ms. Ripley responded by saying she was not polling the Board. Dr. Young apologized for misreading her actions. He simply thought Ms. Ripley was going around the room to get the Board's response to the original questions. Ms. Ripley asked for any additional comments from the Board.

Board member Gonzales asked to comment about the one-year, two-year term. Mr. Gonzales noted that he has been on the Board for three years and believes the Board has denied him the opportunity to be part of leadership. Mr. Gonzales has asked to have the bylaws reviewed and changed to a one-year term, but the bylaw review is taking a long time. Mr. Gonzales would like the opportunity to take a leadership position. Mr. Gonzales said the Board denied him an opportunity again at the last election. Mr. Gonzales wants to see new people in leadership and believes it should be by seniority. Dr. Young said he asked the question because the report contains some language that says the role of the Chair and Vice-Chair should be rotational unless voted differently. Ms. Ripley stated that the Board voted for an annual election a few years ago. She noted that there was an election, the Board voted her as Chair, and she is sure that she did not comment that any one person should not be a Board Chair. There was a comment that one of the Chair's responsibilities is to communicate with the Chancellor. If a Board member refuses to talk to the Chancellor, it would be hard to manage a college of this size. Ms. Ripley said she did not direct this comment to any one person, but Ms. Garcia may have misunderstood its meaning.

Board member Gonzales noted that the operative word is "rotational" and that does not occur.

Dr. Ramming asked the Board if the make-up of the administration, faculty, and staff is reflective of the student body. Ms. Ripley noted that Pima's student body is close to 50% Hispanic or other minority. She does not believe the staff is at 50%. Ms. Ripley said it is difficult to answer the question without data and noted that she does not have those statistics. Board member Clinco added that the Board does not have the statistics with them, but he knows that it is not a general reflection of the student body. Mr. Clinco said Arizona law restricts us on how we can hire. We aspire to achieve better representation in our staff and want to ensure that it reflects the full diversity of our community and College. Mr. Clinco said this Board has a remarkable, distinct representation of different minority groups in our community. He added that we have one of the most diverse Boards in Southern Arizona.

Board member Garcia noted that she thinks the faculty number is lower than 50%, and with administrators, it is less than that. Ms. Garcia said that more and more administrators are leaving and said there is a specific reason for them doing so. Ms. Garcia said she would leave it at that. Dr. Young asked Ms. Garcia for clarification on her comment. Ms. Garcia did not respond.

Dr. Young said his team did a breakdown of the Executive Leadership Team and provided the following information: The Executive Leadership team consists of nine males and four females. Eight Whites, two Hispanics, two African-Americans, and one Pacific Asian Islander. Dr. Young asked if the ELT data compares to the population of Pima County residents and students. Ms. Ripley believes it is more a reflection of the community rather than the student body. She again mentioned that the Board does not have the data in front of them to be able to answer correctly.

Board member Hay noted that other institutions are recruiting our leadership. Dr. Hay mentioned that Dr. Bruce Moses is one of those administrators and added that great people being recruited away to leadership positions is a badge of honor.

Dr. Young asked if there was anything, he and Dr. Ramming did not cover in the introductions that may be helpful. Chairperson Ripley said the Board's efforts are to become a better Board and perhaps someday become a unified one. Ms. Ripley wanted to reiterate that we all have the same goal in mind, which is the greater good of the College, and we do not have a choice. There are

no alternatives. A Governing Board of this type has to self-police and help one another. The Board has to grow together. We are elected officials, we cannot fire each other, and no one else can fire us, so we need to make this work. Ms. Ripley said she plans as Chair to go forward in the same manner that she has been and the same manner as her predecessor did when it comes to professional development, transparency, and communication. Ms. Ripley asked if the other Board members had any comments.

Board member Gonzales stated that he agrees that we have a more diverse Board, but it must constitute [sic] the community. Mr. Gonzales noted that we should embrace this. However, Mr. Gonzales believes a statement made on June 9th disrespected his population. Mr. Gonzales said that he was told in public that he could not advocate and should recuse himself from anything that deals with Pascua Yaqui Tribe. Mr. Gonzales did not feel good about it and felt like it disrespected him, the communities, and the two tribal nations. Mr. Gonzales added that the statement was recorded.

Board member Clinco said that the Board is divided. He did note that more than 95% of the Board votes are unanimous. The Board is split on only a handful of decisions. It has manifested through significant disagreements. What you are seeing is an articulation of that. Mr. Clinco feels that at least three Board members believe that we continue to comply with the core criteria and perhaps two who do not. Mr. Clinco thinks the tone of the answers today reflects that. He believes that the College continues to meet its core mission, we continue to provide moderate oversight, and we continue to comply despite some of the internal frictions.

Board member Garcia said that we are in violation of some of the core criteria and if a further investigation is done they will see that because it is documented.

Dr. Young asked if the Board members are committed to the Diversity, Equity, and Inclusion Plan, and if so, how is that demonstrated? Chairperson Ripley said the Board is committed to the plan and will work on that continuously as individuals and as a Board. She noted that it is important to her personally.

Dr. Young said, related to DEI if there were any demonstrations to that. Dr. Young said he noticed that there are awards and recognitions, but he would like to know if there is anything that the Board could share that shows this area is trending upward. Chairperson Ripley agrees that in addition to all that, we have DEI committees, teams, and clubs that share all the information on their events. In addition to that, we have asked for a Pride Index to be conducted last year. The results were not what we wanted and were relatively low, but the Chancellor is trying to improve on them. The College reported on the Pride Index at the last Board meeting.

Dr. Young asked for the Board's general reaction to allegations or rumors surfacing related to a culture of fear permeating the institution and rumors that employees sometimes won't speak up for fear of retaliation. Ms. Ripley said that an institution of this size relies on processes and policies. If a complaint or allegation comes up, we have departments like the Office of Dispute Resolution and Human Resources that are part of the process. She noted that we do not tolerate an environment of fear, and she has had conversations with the Chancellor about this. Ms. Ripley said the College conducted surveys, specifically the Climate Survey, that the Board takes seriously. These surveys are used to root out problems.

Board member Clinco noted previous issues with HLC related to Human Resources. Since then, the College has implemented processes and institutional changes, including an online portal for employees to express their concerns, a telephone number to call, and the Office of Dispute Resolution. ODR conducts investigations internally on any complaints. The Board held many study sessions over the past few years specifically around these concerns. ODR has reported to the Board about the number of complaints they have handled, the process they follow, and how effective the department has been. ODR shared this publicly with the Board. The Board has also been very clear that they do not tolerate this type of behavior.

Board member Garcia wanted to add that when the Board leaves today, she would like to give the peer reviewers documentation to show that people are in fear when they have gone through the ODR process. Ms. Garcia believes the ODR process is not working effectively because some administrators have hidden information, including the former Board Chair. Ms. Garcia said the documentation shows this. She added that something HLC should consider is how can you take care of an issue with the administration and the leadership, specifically the Chancellor, to bring them in line with what they should be doing? Dr. Young responded by saying they have all of the information they need. The onsite visit is to gather testimony only. Dr. Young said that this does not conclude or stop anyone else from any other kinds of appeal processes, but he has to say, on behalf of the HLC, that they have what they have. Dr. Young said he appreciated Ms. Garcia and thanked her.

Board member Clinco commented to Ms. Garcia. Mr. Clinco said he has been saying the same thing every time a Board member has a complaint or information related to a complaint. The Board should contact the Chancellor, General Counsel, or the Board Chair to deliver the information in order for an investigation to be conducted. This is per the policies of the institution and the Board.

Dr. Young said that before they leave, he would like to know from each member of the Board one thing they are willing to do to try to improve Board relations. Board member Garcia asked to go first. She said that she is willing to work with the other Board members. Ms. Garcia said, at first, that she worked with the Board and that they had a good working relationship for the first two years, but it was the mistrust and the things that came out that brought her to this point. The main thing would be to work on the trust issues at all levels.

Board member Gonzales said that there is a lack of respect among the Board members. The first year he sat back to listen, take in the knowledge, and tried to get familiar with the interworking of the College. Mr. Gonzales has witnessed too much disrespect. He said it is not a good feeling to come to Board meetings to be disrespected in public and executive sessions. Mr. Gonzales noted that he has not shared this information, but it does happen. He said it is unfortunate to say, but he is being truthful and honest. Mr. Gonzales said it has been challenging but that he is here because of the people and the students. He knows he has something to contribute.

Board member Clinco believes we need to commit to better communication because that is one of the fundamental things. He agreed with Chair Ripley that there continues to be an impediment. He is not sure if COVID contributed to this or having all meetings on Zoom, but this is the first in-person meeting in a long time. Mr. Clinco said he is willing to commit to better communication and working with outside facilitators to help.

Board member Hay says she will recommit to better communication, which means listening and communicating on both sides. Also continued development for all of us.

Chairperson Ripley echoed what the other Board members said about committing to better communication. We all consider ourselves communicators, but we can be better. Ms. Ripley will be more articulate and specific. Rather than throwing out the rhetoric and accusations and generalities, I think we all need to understand the specifics of what might be going on here as far as the Board's effectiveness is concerned. Ms. Ripley vows to be patient and try to understand and communicate stronger and more frequently.

Dr. Young thanked the Board for their time and for working through some of these processes, which could be awkward at times, but he believes he has all the information he needs.

### 3. ADJOURNMENT

Chairperson Ripley adjourned the meeting at 2:02 p.m.

# **EXHIBIT 6**



**February 25, 2022**  
**An Independent**  
**Assessment of the**  
**Governance Effectiveness**  
**of the Pima Community**  
**College Governing Board**

**PREPARED BY**

Dr. Peter Smith and Dr. James Lyons, Consultants  
Association of Governing Boards of Universities and Colleges  
1133 20th Street NW, Suite 300  
Washington, DC 20037

**PREPARED FOR**

Pima Community College Governing Board

## **Introduction**

The Association of Governing Board's (AGB) consultant team was hired by Pima Community College (PCC) to visit and conduct a review of Board governance issues in anticipation of a special HLC on-site review in late March, 2022. The team, Drs. Peter Smith and Jim Lyons, focused solely on the effectiveness of board governance and directly related issues at PCC. The team used the Higher Learning Commission's accreditation standard 2.C. and its five criteria as the outline for interviews. With that in mind, the team interviewed the following 9 people to get a broad range of perspectives from both inside and outside of PCC.

### Board Members

- Catherine Ripley – chair
- Demion Clinco – vice chair
- Meredith Hay
- Maria Garcia – did not make herself available for an interview
- Luis Gonzales – did not make himself available for an interview

### Others

- Chancellor Lee Lambert
- Board Professional – Andrea Guana
- Faculty Senate President – Dr. Rita Lennon
- Former co-chair, Finance and Audit Committee - Tracy Nuckolls
- Chair, C-FAIRR - Mario Gonzales
- President and CEO, Southern Arizona Leadership Council – Ted Maxwell

Mssrs. Nuckolls, Gonzales, and Maxwell are not members of the PCC community per se. Mr. Nuckolls was the community-representative co-chair of the Governing Finance and Audit committee. Mr. Gonzales is chair of C-FAIRR, a community-based group. And Mr. Maxwell is president and CEO of the Southern Arizona Leadership Council. The team scheduled these interviews in its attempt to get a diverse array of external viewpoints on the PCC Board's effectiveness.

As a part of our interview protocol, all of the participants were informed that their names would not be used in the body of the text. We kept to that promise even in cases where there was no objection to being quoted.



The interviews were conducted on site at PCC with three exceptions: Mr. Gonzales and Mr. Maxwell were interviewed on the telephone and Ms. Ripley was interviewed on Zoom. The AGB visiting consultants were on-site from Sunday evening, 2/13/22, to Friday morning, 2/18/22. The content of this report is solely the observations and findings of Drs. Smith and Lyons.

## General Observations

The current Chancellor took office in 2013 at a time when PCC was on probation with the HLC for, among a variety of reasons, poor Board oversight of the previous Chancellor which had, in turn, resulted in significant misconduct by that individual. Since then, Chancellor Lambert and succeeding Boards have developed and implemented an impressive array of by-laws, self-evaluations, goal-setting activities, board orientation and training activities and board processes to make all the activities of PCC's governance, administration and policy development more specific, transparent, and public.

At the time of our visit, however, there was no doubt that the Board is deeply split over the direction of the college, support for the Chancellor, and the way that its business is conducted generally. This split reveals itself in 3-2 votes on many issues of importance with the same Board members in each group. As a result, the losing Board members have made a practice of claiming major misdeeds by the Board majority and the Chancellor and taking other, unilateral actions based on their assertions, such as aligning with the plaintiff in a lawsuit against the Chancellor and the college.

Unfortunately, despite being contacted repeatedly, beginning on February 1, 2022, Board members Maria Garcia and Luis Gonzales declined to meet with the AGB team. This is especially disappointing and significant given that they are the two Board members with significant concerns about the Chancellor's and the Board's performance. Having said that, their refusal to participate provides an important data point and underscores the deep split on the Board, making our visit a case study of that split.

As another example, the events which generated the upcoming HLC review included a letter from Board members Gonzales and Garcia to the HLC. The letter asserted and itemized alleged misconduct by the board majority and the Chancellor and his team. Having elicited a response from the college refuting the allegations, the HLC decided that a visit was warranted to specifically evaluate the Board and PCC Governance per HLC's Standard 2.C.

With the HLC visit scheduled for late March, 2022, the Board Chair and the Chancellor approached AGB and requested a consultation prior to the HLC visit. The goal was to secure a respected professional and independent third-party opinion about Board and governance effectiveness. The entire Board discussed this possibility in Executive Sessions in September and October 2021 and voted to issue the contract to AGB at their meeting on January 12, 2022. The vote was 3-2 with members Garcia and Gonzales voting "no", claiming that they had not been included in any discussions, with Ms. Garcia adding that she did not need any preparation for the HLC visit.

In a recent publication entitled "Principles of Trusteeship", AGB described the characteristics of a highly effective board member. This publication was designed to expand the conversation from a generalized focus on effective boards to a larger conversation which included the performance of individual board members. One principle stands out as especially

important to PCC and its Board given the current situation: “Think Independently and Act Collectively”. This principle captures the necessary balance between board members arguing for their point and voting their beliefs on the one hand and, on the other hand, joining the majority to move forward when their preferred position is not the winning position. Given HLC’s charge for their visit as outlined in their letter to PCC, the authors of this report have decided to organize the report and its findings around the five criteria in Standard 2C and through the lens of the principle to think independently and then act collectively.

The body of the report will provide an overview of the findings from our interviews organized by Standard 2C’s criteria 1-5; our review of documents both before and during the campus visit; video review of Board meetings; and our attendance at a Board meeting. The conclusions will summarize the authors’ judgments based on what we have read and observed.

### **Standard 2C Criteria and Discussion of Interview Results**

2.C. The governing board of the institution is *autonomous* to make decisions in the best interest of the institution in compliance with board policies and to ensure the institution’s integrity.

Criterion 1: The governing board is *trained and knowledgeable* so that it makes informed decisions with respect to the institution’s financial and academic policies and practices; the board meets its legal and fiduciary responsibilities.

The team found a rich diversity of training and educational experiences that are available both on an ongoing and, in some cases, a one-time basis. They include:

- In-depth orientation for new board members that lasts as long as two days and covers all board activities and responsibilities.
- Annual access to the Arizona and the American Association of Community College Trustees meetings (AACCT and ACCT respectively).
- Individual visits from consultants sent to educate and advise the board from the HLC and the AACCT as well as an individual outside consultant, all in the last two years.
- A robust and completely transparent annual goal-setting and board self-assessment process. During this process, the Board meets in a special study session. Prior to the meeting, the Chancellor and Board Chair meet with AACCT to adapt their generic board assessment packet so that it relates specifically to PCC’s needs and goals at the time. Then, at the meeting, the board engages in two separate activities:
  - assesses their effectiveness on meeting goals set for themselves as a board and individuals for the previous year; and

- sets and agrees to goals for the upcoming year.
- Then at the next regular Board meeting, a summary of the evaluation of the previous year's performance and the new goals are voted on and made available to the public to assure transparency.

The Board also has regular study sessions at which they receive information from the Chancellor and dive deeply into significant upcoming issues and developments which they will encounter in the months ahead. This regularly scheduled activity is intended to assure that every Board member has the opportunity to ask any and all questions that are important to them before making a decision in a formally called Board meeting.

Finally, the Board self-evaluation Summaries for 2019-2020 and 2020-2021 show a sharp decline across all areas of focus from year to year. This drop parallels the rising dissension among Board members.

Criterion 2: The governing board's deliberations reflect *priorities to preserve and enhance the institution.*

The record of improvement in the institution's operations, budgeting, and academic programming suggests strongly that the overall impact of the Board's deliberations and the Chancellor's leadership reflect priorities to preserve and enhance the institution. Having said that, it appears that the Board majority generally acts in agreement and with consultation of the Chancellor and his team. As mentioned in the earlier analysis, five years ago, the Board adopted a "study sessions" tool. This gives the Board a regular opportunity to get together and dive into complex issues like student success, CARES money application, and the Chancellor's performance.

The Board focuses on the Mission Framework for its review of the Chancellor's performance and priorities. However, the two members who refused to meet with the team allegedly contend they were not included, when the minutes show they were included but simply disagreed with the findings. As one example, when there was a vote to offer a public ballot question to expand the college's spending authorization, all members supported it at the Board level and then the two members in question opposed the proposition publicly.

The general sense of the three majority members was that there are five members and they are participating and voting. Also, despite the Board split, that the college is thriving, working with external groups such as donors, the unions, and business groups. Having said that, very little of this is happening through Board consensus.

To further complicate matters, as mentioned earlier the two members on the losing side of these votes would not meet with the team to discuss their priorities, or what they are seeking as alternatives to the questions they opposed. Although some of the antagonism towards the

Chancellor goes back to the days when he was still a candidate for the job, the situation has become much more difficult in the last 2 - 2.5 years.

One last example. The Chancellor's goals are discussed at every meeting. He presents the metrics in Executive Session and they are fully discussed before going into public session to debate and vote. At the last annual goal-setting and self-evaluation meeting everyone agreed to the next year's goals. But when the public vote was held, the count was 3-2.

It is a difficult thing to address, but it appears that the overall impact of the Board's performance reflects priorities to preserve and enhance the institution. But not all of the Board members are coalescing behind the steps taken to preserve and enhance the institution once a decision is made.

Criterion 3: The governing board reviews the reasonable and relevant interests of the institution's internal and external constituencies during its decision-making deliberations.

As is the case with any college or university, there are ongoing internal and external debates and disagreements. Specifically, the Faculty Senate is working to clarify more specifically what their role is re: curricular oversight and related issues. The Chancellor understands those concerns and has reached out. Also, changes to the way "meet and confer" consultations are conducted with employee groups due to a change in state law has been a source of friction. Finally, the Chancellor has created the All College Council in an attempt to improve communication across constituencies.

It appears that donations and other development activity have held their own and increased in recent years and that business and community support are strong. Importantly, the ballot proposal to increase PCC's funding cap was recently endorsed by a resounding majority of the voters of Pima County.

Worth special note is the Board's establishment of three committees which include several community members informing the Board about pertinent issues through 2 Board members who serve on each committee. A community member co-chairs each committee with a designated Board member. These committees are the Finance and Audit Committee, the Human Resources Advisory Committee, and the recently established Enrollment and External Outreach Advisory Committee. The Finance and Audit Committee has been operating the longest, beginning in or around 2014. It's reach includes working with the college staff through the CFO to improve the quality of financial decision-making.

In other areas, the Board acts as a committee of the whole, guided by the special working sessions to gain needed understanding and detail which were referred to earlier. There are reports from the Faculty Senate, various staff constituencies, and the student body at each Board meeting.

Finally, with the negative impact of the pandemic on all colleges, especially community colleges, the enrolments have dropped at PCC. Having said that, the “Centers of Excellence” approach that the Chancellor has developed and the Board has endorsed has earned the strong support of employers in the community. Internally and externally, it is seen as an innovative and effective response to the employment needs of the community and to a projected older and more employment-focused student population in the years ahead.

Criterion 4: The governing board preserves its independence from undue influence on the part of donors, elected officials, ownership interests or other external partners.

The Board does receive requests and, sometimes, pressure from labor groups, business groups, and community groups. But, as a Board, it has not surrendered its independence.

Criterion 5: The governing board delegates day-to-day management of the institution to the institution’s administration and expects the institution’s faculty to oversee academic matters.

This criterion lies at the center of the Board’s divide. Although they would not meet with the team, the two Board members appear to be opposed to the delegation of authority that the Governing Boards have developed and implemented with the Chancellor over the years since 2013. One such allegation centers on the Chancellor’s assertion of that delegation of authority in some areas of contracted services.

Having said that, seen through the lens of the shared experience of this team, it appears that the operational delegation of authority to the Chancellor by the Board is appropriate, effective, and supported by the new protocols and practices put in place since the Chancellor’s arrival and referred to earlier. PCC has built a structure of policy, board protocols, self-assessments, and new official practices which have lifted it out of the circumstances that led to its probation in 2013 and have placed it on sound financial and academic footing.

## Findings

1. It is apparent to the team that the characteristics of highly effective board members are not shared equally across all five members of the Board. The driving reality is that the Board is split. For example, on more than one occasion during our interviews, the Board was referred to as a “dysfunctional family”. The split is driven by two factors. First, there is not a shared vision for the leadership of the college. Second, there appears to be disagreement and possible misunderstanding about the Board’s role. So, if an agenda item is approved 3-2, it has been alleged that the motion passed was not a “Board vote” because it was not unanimous.

Also, given their apparent deep concern about the conduct of the Board majority and the Chancellor, the two Board members who would not meet with us appear to put their opposition to the Chancellor’s performance above all other issues, including:

- Respecting the Difference between the Board’s Role and the Administration’s Role,
- Thinking Independently and Acting Collectively, and
- Focusing on what matters most to long-term sustainability

It is not uncommon for there to be strong differences of opinion among college and university board members. Sometimes the debate is helpful and strengthens the board. However, there are three factors that make the difference of opinions on the PCC Board different. First, the Board is small at five members so the differences in opinion are magnified. If there were 11 members and two frequently dissented, it would have a different impact. Second, the division has taken on a personal and, at times, a “nasty” tone. And third, the division has become a point of racial/ethnic stress which makes Board unity that much harder to achieve.

2. The evidence which this team saw indicates that the institution is moving forward positively in all major respects, recovering from the causes for its probation 7 years ago. This forward progress is significant given the split on the Board and the resulting lack of harmony between some Board members and the Chancellor and his team.

3. The costs of this dysfunction, however, are serious and continuing under the surface. They include fatigue, low morale, continuous sparring over questions of procedure, and the resulting confusion that arises when everything from the timing of notices to the scheduling and sharing of agendas is disputed. It is, in this team's eyes, remarkable that PCC is doing as well as it is, given these circumstances. And, in the team's opinion, this poor working climate will ultimately cause good people to look for work elsewhere. If they witness certain behaviors at the top, what does this say to the faculty and staff?
  
4. The team would like the Board and the Chancellor and his staff to be clear about the range of consequences that can result from a failure to heal the divisions. They are progressively negative for the reputation of PCC. They include:
  - Being put "On Notice" which tells the institution that it is at risk of more serious actions if its problems are not resolved.
  - Being put "On Probation" which is the next step in increasing the negative consequences of failure to comply.
  - Being given a "show-cause" order which asks the institution to answer the question of "why accreditation should not be withdrawn".
  - Withdrawal of accreditation itself.
  
5. The team recommends that the term "advisory" be struck from the three Board committees if it is legal to do so. They are intended to be formal and functional components in the Board's decision-making processes and provide valuable input to the Chancellor and his staff.
  
6. Board members and the Chancellor and his staff should make certain that progress that can be documented not be overshadowed by other assertions, problems and challenges when meeting with HLC's visiting team and responding to their questions.



Despite the confusion and the clear dysfunction that the Board split reveals, our overall finding is that the Pima Community College District Governing board and Chancellor are succeeding in spite of the internal conflicts.

# **EXHIBIT 7**

**Wednesday, June 9, 2021**  
**Public Hearing, Special and Regular Meeting**

**VIRTUAL MEETING**

Following the guidance of public health officials, the College has closed its facilities to the public and allows only restricted access for essential personnel to promote social distancing and limit the spread of the coronavirus. Accordingly, the Governing Board will conduct this meeting through remote technology only. Members of the public interested in following the proceedings may do so by going to the PCCTV Youtube homepage.

To view the webinar, cut and paste the following link into your browser:

<https://www.youtube.com/PCCTVSTREAM>

Public comment registration information:

<https://www.pima.edu/about-pima/leadership-policies/governing-board/board-meetings/public-comment.html>

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**Public Hearing 5:00 p.m.**  
**Special Meeting 5:15 p.m.**  
**Regular Meeting 5:30 p.m.**  
**Virtual**

## **1. PUBLIC HEARING**

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**Subject**                    **1.1 Call to Order, Videoconference**

Meeting                    Jun 9, 2021 - Public Hearing, Special and Regular Meeting

Category                    1. PUBLIC HEARING

Type                        Procedural

**Subject**                    **1.2 Roll Call**

Meeting                    Jun 9, 2021 - Public Hearing, Special and Regular Meeting

Category                    1. PUBLIC HEARING

Type                        Procedural

## **2. INFORMATION/DISCUSSION (55 min.)**

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**Subject**                    **2.1 Fiscal Year 2022 Proposed Budget Summary and Hearing (10 min.)**

Meeting                    Jun 9, 2021 - Public Hearing, Special and Regular Meeting

Category                    2. INFORMATION/DISCUSSION (55 min.)

Type                        Discussion

Goals

**Contact Person:**  
Dr. David Bea,  
Executive Vice Chancellor for  
Finance and Administration  
(520) 206-4519

## Information/Discussion:

Summary of the proposed budget for Fiscal Year 2021-2022 — Public comment will be permitted.

### File Attachments

Governing Board Presentation - Fiscal Year 2021-2022 Proposed Budget 06.09.2021.pdf (324 KB)

## Workflow

Workflow  
May 11, 2021 3:37 PM :: Submitted by Keri Hill. Routed to David Bea for approval.  
Jun 3, 2021 1:20 PM :: Approved by David Bea. Routed to Jeff Silvyn for approval.  
Jun 3, 2021 5:53 PM :: Approved by Jeff Silvyn. Routed to Andrea Gauna for approval.  
Jun 3, 2021 6:03 PM :: Final approval by Andrea Gauna

**Subject**                    **2.2 Public Comment-Call to Audience, Teleconference/District Office, 4905 E. Broadway Blvd., Building C, Room 105 (Please visit the PCC webpage for public comment registration information.) (45 min.)**

Meeting                    Jun 9, 2021 - Public Hearing, Special and Regular Meeting

Category                    2. INFORMATION/DISCUSSION (55 min.)

Type                        Procedural

The Pima Community College Governing Board welcomes public comment on issues within the jurisdiction of the College. Generally, the total time for public comment will be limited to 45 minutes and comments will be limited to three minutes per individual. These time limits may be modified by the Board Chair or Board. Individuals sharing comments are expected to communicate with decorum and respect. Individuals who engage in disorderly conduct or who use derisive or insulting language may have their time reduced or concluded by the Board Chair. At the conclusion of public comment, individual Board members may respond to criticism made by those who addressed the Board, may ask staff to review a matter, or may ask that a matter be put on a future agenda. Members of the Board, however, may not discuss or take legal action on matters raised during public comment unless the matters are properly noticed for discussion and legal action. Finally, be advised that internal College processes are available to students and employees for communication.

## 3. RECESS

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### 4. SPECIAL MEETING (25 min.)

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**Subject**                    **4.1 Call to Order**

Meeting                    Jun 9, 2021 - Public Hearing, Special and Regular Meeting

Category                    4. SPECIAL MEETING (25 min.)

Type                        Procedural

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### 5. ACTION (20 min.)

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**Subject**                    **5.1 Fiscal Year 2022 Property Tax Rates and Levies (10 min.)**

Meeting                    Jun 9, 2021 - Public Hearing, Special and Regular Meeting

Category                    5. ACTION (20 min.)

The Committee also received regular updates on the projects funded by the revenue bonds and will discuss arbitrage consulting and compliance training at their final meeting of the year.

#### *Comprehensive Integrated Energy Management Program*

The Committee reviewed the process utilized to select the vendor for the Comprehensive Integrated Energy Management Program, resulting in acceptance of the recommendations to College policies and procedures, which were provided by outside legal counsel, as well as two additional recommendations from the Committee. A report was provided to the Governing Board at the June 9, 2021 Regular Meeting.

#### *Potential Topics for 2021-2022*

In the next Fiscal Year, the Committee will continue to have standing agenda items related to the Revenue Bonds and Internal Audit. Further, the Committee will hear updates on ERM and participate in a new review and monitoring process for the College's annual capital project plan.

#### **Workflow**

Workflow                      May 20, 2021 2:24 PM :: Submitted by Keri Hill. Routed to David Bea for approval.  
Jun 3, 2021 1:30 PM :: Approved by David Bea. Routed to Jeff Silvyn for approval.  
Jun 3, 2021 5:58 PM :: Approved by Jeff Silvyn. Routed to Andrea Gauna for approval.  
Jun 3, 2021 6:03 PM :: Final approval by Andrea Gauna

**Subject**                      **9.4 Finance and Audit Committee Report on Comprehensive Integrated Energy Management Program Vendor Selection Review**

Meeting                      Jun 9, 2021 - Public Hearing, Special and Regular Meeting

Category                      9. INFORMATION ITEMS (5 min.)

Type                              Information

Goals

**Contact Person:**  
Dr. David Bea,  
Executive Vice Chancellor for  
Finance and Administration  
(520) 206-4519

**Contributing Author:**  
Keri Hill, (520) 206-4792

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#### **Information:**

In Spring 2021, three members of the Governing Board's Finance and Audit Committee ("Committee") initiated a review of the vendor selection process for the Comprehensive Integrated Energy Management Program. The review commenced after a request from Board Member Maria Garcia to the Committee Chair, Tracy Nuckolls. Prior to this action, the College engaged Gust Rosenfeld to provide outside legal counsel for a review of this same vendor selection. The resulting report on the procurement process and a summary of recommendations were provided to the three Committee members.

On May 7, 2021, the Finance and Audit Committee ("Committee") convened an Executive Session for discussion or consultation for legal advice from the College's legal counsel concerning the Comprehensive Integrated Energy Management Program vendor selection process review. The Executive Session comprised Chair Nuckolls; Committee members Demion Clinco, Maria Garcia, Jesus Manzanedo, Ken Marcus, Scott Odom, and Ben Tuchi; College General Counsel Jeff Silvyn; and Susan Segal from Gust Rosenfeld.

The Committee discussed the vendor selection process review, as well as the report provided by Ms. Segal. A second Executive Session on the topic was scheduled for May 27, 2021 to discuss a potential report of recommendations for

submission to the Governing Board.

The Executive Session on May 27, 2021 comprised Chair Nuckolls; Committee Members Demion Clinco, Maria Garcia, Jesus Manzanedo, Ken Marcus, Scott Odom, Ben Tuchi, and Clarence Vatne; and College General Counsel Jeff Silvyn. Ms. Segal was on standby, but with no further questions for legal counsel, the Executive Session concluded and the Committee moved into a Regular Meeting.

A motion was made to create a recommendation document to the Governing Board that will summarize the process review completed by the Committee, with acceptance of the three recommendations at the end of the Summary Minutes from the May 7, 2021 Executive Session. The motion passed with all in favor.

### **Recommendations:**

The Committee concluded based on the results of the review conducted that no violation of law or of College policy occurred in the selection process associated with the Comprehensive Integrated Energy Management Program. However, as a result of the review, the Committee supports implementation of the following recommendations:

- Ms. Segal's list of procurement manual revisions, as stated in section *XIV. Best Practices and Recommendation*, of her report.
- More robust training for employees participating on solicitation review committees to better describe expectations for participation and to help distinguish between personal opinions or concerns and the scoring criteria.
- A revision to the procurement manual, or perhaps a Board Policy, to codify the practice of the Chancellor not participating in competitive solicitation processes due to the volume of requests and inquiries received in the Chancellor role.

### **Workflow**

Workflow                      May 27, 2021 5:18 PM :: Submitted by Keri Hill. Routed to David Bea for approval.  
Jun 3, 2021 1:31 PM :: Approved by David Bea. Routed to Jeff Silvyn for approval.  
Jun 3, 2021 5:59 PM :: Approved by Jeff Silvyn. Routed to Andrea Gauna for approval.  
Jun 3, 2021 6:03 PM :: Final approval by Andrea Gauna

### **Subject                      9.5 Employment Information**

Meeting                      Jun 9, 2021 - Public Hearing, Special and Regular Meeting

Category                      9. INFORMATION ITEMS (5 min.)

Type                              Information

#### **Contact:**

Carleen McElroy Thompson  
Assistant Vice Chancellor, Human Resources  
(520) 206-4637

#### **Contributing Authors:**

Rachel Araiza (520) 206-4622  
Leslie Weng (520) 206-4670

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### **Information:**

For your information and in accordance with BP 2.02 and Administrative Procedure 5.01.01, the Chancellor submits the following employment information:

#### **New Hires (Director & Above):**

No director and above new hires to report this month.

#### **Retirements:**

No retirements to report this month.

File Attachments

BP-3-02 draft 5-13-21.pdf (164 KB)

BP-3-02 5-13-21.pdf (162 KB)

**Workflow**

Workflow May 17, 2021 1:57 PM :: Submitted by Angela Wesson. Routed to Jeff Silvyn for approval.  
Jun 3, 2021 7:50 PM :: Approved by Jeff Silvyn. Routed to Andrea Gauna for approval.  
Jun 3, 2021 8:08 PM :: Final approval by Andrea Gauna

**Subject** 10.29 Approval of items on Consent Agenda

Meeting Jun 9, 2021 - Public Hearing, Special and Regular Meeting

Category 10. CONSENT AGENDA GROUPING (5 min.)

Type Action (Consent)

Recommended Action The Governing Board has been asked to approve the items on the Consent Agenda.

*Our adopted rules of Parliamentary Procedure, Robert's Rules, provide for a consent agenda listing several items for approval of the Board by a single motion. Most of the items listed under the consent agenda have gone through Board subcommittee review and recommendation. Documentation concerning these items has been provided to all board members and the public in advance to assure an extensive and thorough review. Items may be removed from the consent agenda at the request of any board member.*

**Motion & Voting**

The Governing Board has been asked to approve the items on the Consent Agenda.

Motion by Catherine Ripley, second by Meredith Hay.

Final Resolution: Motion Carries

Yea: Meredith Hay, Demion Clinco, Luis L Gonzales, Maria D Garcia, Catherine Ripley

**11. ACTION ITEMS (20 min.)**

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**Subject** 11.1 Nomination and Election of New Governing Board Vice Chair (10 min.)

Meeting Jun 9, 2021 - Public Hearing, Special and Regular Meeting

Category 11. ACTION ITEMS (20 min.)

Type Action

Recommended Action Nomination and Election of New Governing Board Vice Chair

**Contact:**  
Chancellor's Office  
520-206-4747

The currently serving Vice Chair and Secretary Meredith Hay has indicated that due to other commitments she is concerned she is not able to devote sufficient time to the duties of her Board office and, as a result, it would be in the best interests of the Board and College to elect a replacement.

**Motion & Voting**

## Nomination and Election of New Governing Board Vice Chair

Chairperson Clinco nominated Cathy Ripley to serve as Vice Chair for the remainder of the term ending January 12, 2022. Cathy Ripley accepted the nomination.

Motion by Demion Clinco, second by Meredith Hay.

Final Resolution: Motion Carries

Yea: Meredith Hay, Demion Clinco, Luis L Gonzales, Catherine Ripley

Abstain: Maria D Garcia

<b>Subject</b>	<b>11.2 Downtown Campus Hotel/Motel Development (10 min.)</b>
Meeting	Jun 9, 2021 - Public Hearing, Special and Regular Meeting
Category	11. ACTION ITEMS (20 min.)
Type	Action
Fiscal Impact	Yes
Recommended Action	The Chancellor recommends the Governing Board authorize the Chancellor or his designee to proceed with the planning, design and construction for the adaptive repurposing and development of the Downtown Campus Hotel/Motel properties.
Goals	

### **Contact Person:**

Dr. David Doré  
President of Campuses and  
Executive Vice Chancellor  
(520) 206-7100

Dr. Dolores Durán-Cerda  
Provost and  
Executive Vice Chancellor  
(520) 206-4999

### **Justification:**

In accordance with the Educational and Facilities Master Plan, the College is planning for the use of three historic hotel/motel properties acquired by the College. Multiple options and associated costs will be presented for the reuse of the Frontier Motel, Copper Cactus Inn and Tucson Inn. The Governing Board will provide direction for the development of the properties based on the long-term vision for the Downtown Campus as outlined in the Educational and Facilities Master Plan.

The Governing Board approved and authorized the purchase of the hotel/motel properties for future development following the adopted Educational and Facilities Master Plan recommendations: expanding the campus footprint to allow for program growth, program relocation and potential new centers. The purchase of the Tucson Inn was approved on September 13, 2017, Frontier Inn on June 13, 2018, and the Copper Cactus on November 14, 2018.

A proposed list of campus programs and services has been prepared by the Provost and Executive Vice Chancellor. The list below represents the initial development proposal from the Provost's office and may be modified as Facilities begins to develop the space programming requirements with the internal customers and project architect.

1. Diner at the Tucson Inn supported by the Culinary & Hospitality Program
2. Diversity, Equity & Inclusion Center (Immigrant & Refugee Resource Center, Ethnic, Gender, Transborder Studies & Sociology, Food Pantry, Social Services liaison to community agencies)
3. Faculty Affairs & Development (Teaching & Learning Center, Faculty Qualifications, Faculty Resource Center headquarters)



4. Innovation Center for the Arts
5. P-Tech: Center of Excellence for Early College

#### **Timeline:**

Estimated completion date is April 2023.

#### **Vendor Selection:**

Facilities will initiate the request for a RFQ to select a qualified architect for the project and will collaborate with the Procurement and Payment Services department for the execution of the contract.

#### **Financial Considerations:**

Construction costs are estimated not to exceed \$13.6 million (\$236/sq.ft.). The project will be funded from the College's reserve funds.

#### **Motion & Voting**

The Chancellor recommends the Governing Board authorize the Chancellor or his designee to proceed with the planning, design and construction for the adaptive repurposing and development of the Downtown Campus Hotel/Motel properties.

Chairperson Clinco motioned to approve option #3 with a modification to conduct a feasibility study related to the south-end building of the Tucson Inn for either parking and/or hotel use. Consideration will also be looked at it in terms of the parking structure and welcome center, staying within the range of \$8.3 million to \$14,583,865.

Motion by Demion Clinco, second by Meredith Hay.

Final Resolution: Motion Carries

Yea: Meredith Hay, Demion Clinco, Catherine Ripley

Abstain: Luis L Gonzales, Maria D Garcia

## **12. REQUEST FOR FUTURE AGENDA ITEMS (5 min.)**

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## **13. ADJOURNMENT**

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## **14. ANNOUNCEMENTS**

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**Subject**                    **14.1 The next regular meeting of the Governing Board will be held on September 8, 2021. Executive Session will begin at 4:00 p.m. in the Governing Board Conference Room-C-228 and Open Session at 5:30 p.m. in the Community/District Board Room C-105, 4905 E. Broadway Blvd. Tucson, Arizona 85709**

**Meeting**                    Jun 9, 2021 - Public Hearing, Special and Regular Meeting

**Category**                    14. ANNOUNCEMENTS

**Type**                        Procedural

Option to recess into legal advice executive session - Pursuant to A.R.S. 38-431.03(A)(3) the Governing Board may vote to go into executive session for the purpose of obtaining legal advice from its legal counsel with respect to any item listed on this agenda or any addendum thereto; A.R.S. 38-431.03(A)(2) to discuss or consider records exempt by law from public inspection.

The Governing Board reserves the right to take action on any agenda item.

Please note that all individuals wishing to attend the Board meeting are subject to a search for security reasons.

To request a reasonable accommodation for individuals with disabilities, a minimum of 5 business days before the event is requested. Contact Phone: (520) 206-4539; Fax: (520) 206-4567.

Members of the Governing Board may participate by telephone, video or internet conferencing.

Meeting presentations will be posted within a reasonable time following the meeting.

# **EXHIBIT 8**



Direct Line: 602-340-2741

December 22, 2021

**PERSONAL AND CONFIDENTIAL**

Jeffrey S. Silvyn  
Pima Community College  
4905 E. Broadway Blvd  
Tucson, AZ 85709-1005  
**Via Email Only:** [jsilvyn@pima.edu](mailto:jsilvyn@pima.edu)

**Re: File No:** 21-2327  
**Complainant:** Luis L. Gonzales

Dear Mr. Silvyn:

The State Bar recently received a bar charge against you from Mr. Gonzales. After our review of the charge, we have determined that no further investigation is warranted at this time. We therefore consider this file closed.

The closing letter to Mr. Gonzales contained the following:

First, the submission complains generally about the quality of Mr. Silvyn's communication with the Board; alleges that he has acted contrary to the integrity of his profession; and accuses him of bullying a Board member because of her Mexican American heritage. Bare allegations of ethical misconduct do not provide a basis for inquiry or investigation and Mr. Silvyn denies them.

Next, the submission alleges that Mr. Silvyn has a conflict of interest because he was hired by, and reports directly to, the College Chancellor and complains that he refuses to recuse himself when a conflict arises between the Board and the Chancellor. Mr. Silvyn denies the allegation and states that his client is the College and the Board, which is its highest decision-making body. While the Board has delegated certain day to day responsibilities to the Chancellor, including the hiring of general counsel, Mr. Silvyn states that he had made clear to the Board that it is his client and that he has comported himself accordingly.

The submission also alleges that Mr. Silvyn threatened you and another member of the Board when you questioned the Chancellor's relationship with certain vendors who were awarded contracts by the College. Mr. Silvyn denies the allegation and states the he advised you both of the potential legal pitfalls of

speaking in a public meeting about matters discussed by the Board during executive session and that he offered you alternative ways by which you might express your concerns without running afoul of the rules relating to the confidentiality of executive sessions.

The submission alleges that Mr. Silvyn engaged outside counsel without first obtaining the consent of the Board. Mr. Silvyn states that he is authorized to oversee outside counsel and observes that most of the Board members have been pleased with outside counsel. Mr. Silvyn further states that he has historically engaged outside counsel to, among other things, assist the Board in its review of the Bylaws or in response questions raised by you and/or another member of the Board regarding the soundness of his legal advice.

With respect to the use of outside counsel to investigate the Chancellor's alleged conflict of interest relating to certain contracts awarded by the College, Mr. Silvyn states that he was authorized to do so and regardless, he consulted with the Board Chairperson before moving forward. Mr. Silvyn further states that allegations of a conflict of interest and/or violations of State procurement laws was also raised with the Attorney General's Office, which declined to investigate, and the State Auditor General, which noted in its February 11, 2021 email that the concerns were "internal and the college district should conduct an internal review to determine if the district's policies were violated."

The submission also complains that Mr. Silvyn retained outside counsel to investigate similar allegations against the Chancellor contained in a June 25, 2021 report of C-FAIRR (the Report) and that he approved a threatening letter that was sent to C-FAIRR. However, the July 20, 2021 letter simply advised C-FAIRR that outside counsel was investigating the Report and asked for the evidence relied upon to reach certain conclusions; the names of individuals with knowledge about them; and any documentation in C-FAIRR's possession relating to them. The letter also made C-FAIRR aware of potential claims against it relating to the Report and asked that it preserve the information and documents in its possession relating to or arising out of the Report. Mr. Silvyn states that he spoke with both the Board Chairperson and the Chancellor before retaining outside counsel, which he maintains is a power that has been delegated to him.

Finally, the submission complains that Mr. Silvyn has provided the Board with questionable legal advice and there has been a breakdown of the College's disciplinary system, which the submission opines is the fault of Mr. Silvyn. These also appear to be internal issues to be raised with and resolved by the Board and/or the Chancellor.

Pursuant to Rule 70(a)(3), Ariz. R. Sup. Ct., the record of this charge will be public for six months from the date of this letter. This charge has no adverse impact on your standing with the State Bar. The record shows a consumer charge that was dismissed. Pursuant to Rule 71, Ariz. R. Sup. Ct., the State Bar file may be expunged in three years.

Sincerely,

/s/ Stacy L. Shuman

Stacy L. Shuman  
Bar Counsel – Intake

SLS/sb

# **EXHIBIT 9**



**Mark Brnovich**  
Attorney General

**OFFICE OF THE ARIZONA ATTORNEY GENERAL**  
**CRIMINAL DIVISION**

March 30, 2021

Sally Ann Gonzales  
1700 W. Washington  
Senate Building 1St Floor  
Phoenix, AZ 85007

**RE: Case #2021-1789**

Dear Sally Ann Gonzales:

This letter is to acknowledge the receipt of the aforementioned complaint. Based on a review of the information provided to our office, it has been determined that this office will not initiate a criminal investigation in this matter.

The information you have provided has been logged and will remain on file per the record retention laws of Arizona.

Sincerely,

**Criminal Investigator Don Carroll**

Office of the Attorney General – SIS  
2005 N. Central Ave., Phoenix, AZ 85004

Phone [REDACTED] Fax [REDACTED]

<http://www.azag.gov>



SALLY ANN GONZALES  
1700 WEST WASHINGTON, SUITE 314  
PHOENIX, ARIZONA 85007-2844  
CAPITOL PHONE: (602) 926-3278  
TOLL FREE: 1-800-352-8404  
sgonzales@azleg.gov



COMMITTEES:  
EDUCATION AND  
HEALTH & HUMAN SERVICES

## Arizona State Senate

TUCSON LEGISLATIVE OFFICE  
400 WEST CONGRESS, SUITE 201  
TUCSON, ARIZONA 85701  
TUCSON PHONE: (520) 398-6000  
TUCSON FAX: (520) 398-6028

DISTRICT 3

March 15, 2021

The Honorable Mark Brnovich  
Arizona Attorney General  
2005 North Central Avenue  
Phoenix, Arizona 85004

Dear Attorney General Brnovich:

We are writing to request the Attorney General's Office open an investigation into possible procurement violations involving Pima County Community College District ("College") and Trane. We have recently become aware of information that raises alarming concerns about a procurement contract executed between the College and Trane, a manufacturing company.

Trane was awarded the contract for the Comprehensive, Integrated Energy Management Program for Pima College on July 8, 2020. (Proposal No. P20/10015)<sup>1</sup> According to the information we received from a constituent, James Knutson is Director of Integrated Solutions for Trane. Prior to the publication for the Request for Proposal, Mr. Knutson engaged in regular and extensive e-mail communications with particular College employees, including the College Chancellor, Lee Lambert. We are unaware if the constituent also requested a public records request of any text messages, social media messages, or calendar notes.

It appears from the information we discovered on the internet that Mr. Knutson is linked with Chancellor Lee Lambert through the National Coalition of Certification Centers (NC3). Chancellor Lee sits on the board of directors for NC3, which promotes Trane as one of only thirteen industry partners. Furthermore, Mr. Patrick Archambault, Director of Strategic Programs, sits on the board with Chancellor Lee Lambert<sup>2</sup> and employs Michael McAlice as a program manager who also works or is associated with Trane as a program manager.<sup>3</sup> We are troubled by the close relationship between key parties in this transaction. This circumstance leads us to believe irregularities may have occurred in the awarding of the contract to Trane, in violation of state law.

The emails exchanged by Mr. Knutson and Gregory Wilson, the dean of Applied Technology and chairman of the selection committee that selected Trane as the awardee, demonstrate a close relationship as evidenced by invitations to play golf and a promise by Mr. Knutson, maybe in jest but still inappropriate, of gifting \$40 for sports bets to Mr. Wilson. See Exhibit 1. In addition, there is an email from Mr. Knutson to Chancellor Lambert offering to send a team to Chancellor Lambert's residence to fix a defective air conditioning unit. Mr. Knutson also identifies a College employee, Bill (Bill, is Mr. William Ward, Vice Chancellor of Facilities at Pima) as someone who will "be very resistant and pull out a number of tactics and claims" to presumably prevent Trane from doing a deep dive into the facilities and systems at the College. *Id.* Mr. Knutson proceeds to advise Mr. Wilson the selection committee for

<sup>1</sup>The notice of the award to Trane can be found at <https://www.pima.edu/administration/contracts-purchasing/rfps-bids-quotes.html>.

<sup>2</sup> The composition of the board of directors for NC3 can be found at <https://www.nc3.net/board-of-directors/>.

<sup>3</sup> The listing for industry partners with NC3 can be found at <https://www.nc3.net/industry-partners/>.

a number of tactics and claims" to presumably prevent Trane from doing a deep dive into the facilities and systems at the College. *Id.* Mr. Knutson proceeds to advise Mr. Wilson the selection committee for the RFP should not go "through Bill's department for obvious reasons" and should be composed of Mr. Wilson's executive team. *Id.*

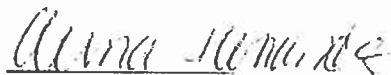
Based on our knowledge and understanding of the documents, we formally request that your office initiate a complete and immediate investigation into the facts and circumstances surrounding this serious matter to determine whether any procurement laws, rules or practices were violated and whether any civil or criminal charges are warranted. The information extracted from this small sample of emails, in addition to the information we gathered from the web shine a light on troubling practices and engagements with a company who was a recipient of a contract award prior to and in close proximity to the timeframe in which the RFP for that award was made public.

It is vital that the constituents of Pima County know that the College is not unlawfully spending public money and that the procurement process is transparent, fair and honest. Thank you in advance for your attention to this matter. We look forward to your prompt response.

Sincerely,



Hon. Sally Ann Gonzales  
Arizona State Senator



Hon. Alma Hernandez  
Arizona State Representative, District 3



Hon. Daniel Hernandez  
Arizona State Representative, District 2

# **EXHIBIT 10**

Silvyn, Jeff <[jsilvyn@pima.edu](mailto:jsilvyn@pima.edu)>

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**Fwd: Audit Request**

1 message

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**Tracy Nuckolls** <[tracy.nuckolls@gmail.com](mailto:tracy.nuckolls@gmail.com)>  
To: Jeff Silvyn <[jsilvyn@pima.edu](mailto:jsilvyn@pima.edu)>

Thu, Feb 18, 2021 at 10:16 AM

Begin forwarded message:

**From:** "Garcia, Maria" <[mgarcia12@pima.edu](mailto:mgarcia12@pima.edu)>  
**Subject:** Re: Audit Request  
**Date:** February 16, 2021 at 7:20:09 AM MST  
**To:** [tracy.nuckolls@gmail.com](mailto:tracy.nuckolls@gmail.com)

Tracy,  
This is the Auditor's response.  
Maria

On Thu, Feb 11, 2021 at 7:00 AM Gretchen Augustine <[gaugustine@azauditor.gov](mailto:gaugustine@azauditor.gov)> wrote:

Dear Mr. Gonzales and Ms. Garcia,

Thank you for reaching out to us regarding your concerns with procurement issues, as well as potential Conflict of Interest Violations related to the college's Integrated Energy Management Program Proposal and subsequent awarding of a contract. Your request for an audit cannot be fulfilled but must come from the Joint Legislative Audit Committee. We have reviewed the documents you provided and have concluded on the following. Specifically, the college district does not follow the State Procurement Statutes, but instead has its own procurement rules and therefore this Office has no authority to conduct an internal review of potential rule violations. Further, the emails you provided do not establish any obvious violations of the State Conflict of Interest Statutes. It appears that the concerns brought forth are internal and the college district should conduct an internal review to determine if the district's policies were violated. As a result, we will not be conducting a further review of these issues at this time. Please let me know if I can be of further assistance.

Sincerely,

**Gretchen Augustine, CFE**

Manager, Division of Financial Investigations

Arizona Auditor General

2910 N. 44<sup>th</sup> Street, Suite #410

Phoenix, Arizona 85018

Office: 602.553.0333

Direct: 602.553.9804



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**From:** Garcia, Maria <[mgarcia12@pima.edu](mailto:mgarcia12@pima.edu)>  
**Sent:** Wednesday, January 13, 2021 1:50 PM  
**To:** Lindsey Perry <[lperry@azauditor.gov](mailto:lperry@azauditor.gov)>  
**Subject:** Audit Request

January 14, 2021

Lindsey A. Perry, State Auditor  
State of Arizona office of the Auditor General  
2910 North 44th Street Suite 410  
Phoenix, Arizona 85018

Re: Request for audit of the Comprehensive, Integrated Energy Management Program Proposal No. P20/10015 10/11/2019).

Auditor General Perry,

We currently serve as elected members of the Pima Community College District Board of Governors (College). We were both elected in 2018. As elected public officials, our fiduciary responsibilities require us to request that your office conduct an audit of the award of the Pima Community College's Energy Management Contract. Recently, a constituent provided us with emails obtained through a request for public records. These emails indicate that Mr. James Knutson of Trane Inc., attempted to influence the RFP process and the selection of members of the review committee for the above referenced contract. The attempts to influence the outcome of this process included communication with Chancellor Lee Lambert.

On October 11, 2019, the College published a Request for Proposal entitled: Comprehensive, Integrated Energy Management Program, (Proposal No. P20/10015, 10/11/2019). We have obtained emails between Mr. Knutson and College employees dated from February 16, 2019 to August 17, 2019. During this period, Mr. Knutson and college employees exchanged 191 emails. All of the emails were sent prior to the October 11, 2019, release of Request for Proposal referenced above. The Pima Community College District Board of Governors approved executing an agreement with Trane, Inc. on June 3, 2020. The two signatories on this audit request were not aware of this information. The contract was executed on August 18, 2020. We have included a record of the emails between Mr. Knutson and the following College employees.

Employee	2019	2020	Total
David Bea, Executive Vice Chancellor for Finance and Admin.	28	93	121
Tom Davis, Chief of Staff	4	7	11
David Dore	16	32	48
Lee Lambert, Chancellor	22	45	67
Ian Roark	7	2	9
Jeffrey Silvyn, General Counsel	0	25	25
William Ward, Vice Chancellor for Facilities	31	30	61
Gregory Wilson, Dean, Applied Technology	83	93	176
Total	191	327	518

It is clear from the emails provided by the College that Mr. Knutson sought to develop a relationship with the College personnel for the purposes of influencing its decision on its energy

management systems contract. It is likely that the nexus for the connection between Mr. Lambert and Mr. Knutson is through NC3. The NC3 website (accessed October 26, 2019) indicates that Trane is an “industry partner” of NC3 (<https://www.nc3.net/industry-partners/#>). The website also contains a NC3 Board of Directors page that lists Mr. Lambert as a member of the Board (<https://www.nc3.net/board-of-directors/>). The extent of Trane’s involvement with NC3 can be gauged by the fact that Mr. Michael McAlice is listed as the Program Manger for Trane. The facts preceding are not a criticism of NC3 or its programs; however, it does clearly indicate that a relationship between Mr. Lambert and Trane appears to have occurred through NC3—well before the RFP process.

We are troubled by the content of these emails as they raise questions concerning the possibility that Arizona Procurement Policy was violated in the preparation and awarding of the contract to Trane. The relationship between Mr. Knutson and College employees is troubling in light of the fact that Trane was awarded the energy management contract. It is critical that the College follow procurement policies set by State of Arizona and its own procurement policies. This is essential to the fair, proper and legal awarding of contracts to vendors. These are the facts in the public record.

1. Chancellor Lambert is a member of the Board of Directors of NC3.
2. Mr. Patrick Archambault, Trane, Director of Strategic Programs, Commercial HVAC, is a member of the Board of Directors of NC3.
3. Trane’s Response to Request for Proposal states that, “Trane is the exclusive Energy Sponsor of NC3.”
4. Mr. James Knutson, Director, Integrated Solutions for Trane US Inc. developed a personal and email relationship with employees of the College that began on or about February 16, 2019.
5. Between February 16, 2019, and August 17, 2019, Mr. Knutson and College employees exchanged 191 emails.
6. On February 19, 2019, Mr. Knutson emailed Trane’s request to Chancellor Lambert to conduct, “[a] Preliminary Assessment for PCC at the Downtown Campus and West Campus, and all I need in return is an email from you agreeing to the terms in this email.”
7. On February 19, 2019, Chancellor Lambert emailed Mr. Knutson approving this request.
8. On May 20, 2019, Mr. Knutson emailed Greg Wilson “If you want to do an RFP, the selection committee must be your entire exec team and must not be done through Bill’s [William Ward, Vice Chancellor, Facilities] department for obvious reasons.
9. On June 6, 2019, Mr. Knutson emailed Mr. Wilson listing the “...tactics” that he alleged Mr. William Ward, Vice Chancellor for Facilities” would use to stop Trane’s Preliminary Assessment.

In the case of the Trane RFP and award process, we are concerned that it may have involved violations of long established policies, procedures and statutes that govern the fair awarding of public funds. We have voiced our concerns through appropriate internal channels including the Chancellor and Board Chair Demion Clinco. The College conducted an investigation on potential conflict of interest, however, it did not address the issues raised in this request.

In summary, we believe that the awardee, Trane Inc., may have been involved not only in the initial preparation of the RFP but also in influencing the selection of the review committee members. E-mails obtained through the Freedom of Information request process, indicate that Mr. James Knudson attempted to influence the RFP and award process. The emails to the Review Committee chair Mr. Greg Wilson clearly document Mr. Knutson's efforts to influence the membership of the selection committee. We note that among the emails received, there is one in which Mr. Knutson offered to repair the Trane air conditioning unit at Chancellor Lambert's private residence. All of this communication occurred prior to, and perhaps during, the RFP process. Arizona statute and regulations require open, fair, and transparent procurement processes. Therefore, violations of the type documented in the emails attached to this correspondence are of a very serious nature.

We have attached documents for your review. We would appreciate your immediate attention to this serious matter.

Sincerely,

Maria Garcia, PCC Board Member, District 3

Luis L. Gonzales, Board Member, District 5



# **EXHIBIT 11**

# Pima County Community College District

HLC ID 1012

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STANDARD PATHWAY: Mid-Cycle Review

Visit Date: 12/3/2018

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Mr. Lee Lambert  
*President*

Linnea Stenson  
*HLC Liaison*

Joan Costello  
*Review Team Chair*

Tonya Buttry  
*Federal Compliance Reviewer*

Della Burt-Bradley  
*Team Member*

Sean Hill  
*Team Member*

Phillip Pena  
*Team Member*

Angela Sivadon  
*Team Member*

Phil Speary  
*Team Member*

Susan Wood  
*Team Member*

## Context and Nature of Review

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### Visit Date

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12/3/2018

#### Mid-Cycle Reviews include:

- The Year 4 Review in the Open and Standard Pathways
- The Biennial Review for Applying institutions

#### Reaffirmation Reviews include:

- The Year 10 Review in the Open and Standard Pathways
- The Review for Initial Candidacy for Applying institutions
- The Review for Initial Accreditation for Applying institutions
- The Year 4 Review for Standard Pathway institutions that are in their first accreditation cycle after attaining initial accreditation

### Scope of Review

- Mid-Cycle Review
- Federal Compliance
- On-site Visit
  
- Federal Compliance 2018
- Northwest Campus
- Community Campus
- Downtown Campus

## Institutional Context

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The citizens of Pima County, Arizona, voted to establish Pima College in 1966. The construction of the first campus began in 1969. Today, Pima County Community College District (PCC) serves the Tucson metropolitan area at six campus locations offering 53 Associates degrees and 103 certificates. Designated an “Hispanic-Serving Institution,” 45 percent of students self-report as Hispanic/Latinx, 40 percent as White/non-Hispanic, 4 percent as Black/non-Hispanic, 3 percent as Asian/Pacific Islander, 2 percent as American Indian or Alaskan, 1 percent as non-resident Alien, and 6 percent as Unknown or Two or More Races. Because of its diversity, its multiple campuses, its recent loss of State funding, and its redesign of academic programming to meet declining enrollment and student success concerns, PCC faces unique challenges and possibilities.

As the data demonstrates, PCC benefits from a wealth of cultural and racial diversity. It works to respect this diversity. But such richness does not come without challenges. The college has retention and success gaps between groups; while the college has grant funding, it faces the resource needs of English Language Learners (ELL) and the under-prepared; and it faces the issue that its employees do not mirror either the student-body or the diversity of its community. (For example, the faculty are 73 percent White.) To address these concerns PCC has developed a Diversity, Equity, and Inclusion Plan (2017-2020) and has recently hired a Director of Diversity, Equity and

## Inclusion.

As a multi-campus district, PCC benefits from shared expertise, central budget management, and a wide reach. However, being part of such a singly accredited district can also create tensions and unclear lines of authority between the central administration and the campuses. PCC is working to navigate these situations, to facilitate shared governance, and to center itself on its mission as “an open-admissions institution providing affordable, comprehensive educational opportunities that support student success and meet the diverse needs of its students and community.” The college has restructured its administration, has redesigned its governance to facilitate shared governance and communication amongst its internal stakeholders (faculty, staff, and students), is working to standardize policies and procedures across all campuses and all departments, is trying to align academic departments and academic scheduling with a goal of a multi-term schedule, and through all of these processes, is working to reduce redundancy and inefficiency.

Until recently, PCC was funded through State allocation, real estate tax dollars from Pima County, tuition, and grants. In 2016, the State of Arizona stopped providing funding to community colleges. The slashing of state funding from the budget created a financial crisis for the College. The recent decline in enrollment and accompanying lost tuition increased shortfalls. Initially, the College went through a period of reduction in force accomplished through cutting administrative positions and not replacing departing employees. The college has now moved to layoffs and a redesign of its Program Review process to help it identify program viability in order to close or downsize programs. It has also identified a campus for closing.

PCC also is taking steps to stabilize or increase enrollment. Two key initiatives in these efforts is joining the Pathways initiative and designing Centers of Excellence. Through the Pathways programming, the college is hoping to retain students, reduce students enrolling in the wrong courses for their program of study, and provide a clear path with support resources to graduation. Further, PCC did an environmental scan and has been holding conversations with business and industry in order to identify programs that meet regional training needs and which are or can be supported with facilities and resources to become Centers of Excellence. The college’s Facilities and Educational Master Plans address the strategies needed to create these centers. One of PCC’s first actions in moving toward the reality of these centers was the recent purchase of four parcels of land adjacent to the college’s Downtown Campus.

Besides coming to an understanding of how the Criteria of Accreditation are met within these unique opportunities and the general operation of the College, the team worked to deal with a large Formal Complaint from a sitting Board of Governors member which it received just prior to the visit. Several of the concerns are addressed within the report and the applicable Core Components. The team found that the legal services model chosen by the Board, the handling of court judgments, and the conducting of the current harassment investigation are outside the scope of the team’s responsibilities and outside the scope of HLC’s concerns.

## **Interactions with Constituencies**

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### BOARD OF GOVERNERS

- 4 Board Members
- Board Chair

### ADMINISTRATORS

- Chancellor
- Provost and Executive Vice Chancellor

- Executive Vice Chancellor of Finance and Administration
- Vice Chancellor of Educational Partnerships and Campus President
- Vice Chancellor of External Relations
- Vice Chancellor of Facilities and Police
- Vice Chancellor of Workforce Development and Campus President
- Assistant Vice Chancellor
- Assistant Vice Chancellor of Academic Affairs
- Assistant Vice Chancellor of Institutional Research, Planning, and Effectiveness; Chief Strategist
- Associate Vice Chancellor of Accreditation and Academic Quality Improvement
- Chief Information Officer, IT
- Vice President of Adult Basic Education
- Vice President of Desert Vista Campus (Acting)
- Vice President of Distance Education
- Vice President of Instruction and Academic Operations
- Vice President of International Development
- Vice President of Northwest Campus
- Vice President of Student Affairs
- Vice President of Workforce Development
- Dean of Business and IT
- Dean of Critical Care
- Dean of Developmental Education
- Dean of Distance Education
- Dean of Education and Biomedical Sciences
- Dean of Enrollment Management
- Dean of Sciences
- Dean of Social Sciences (Acting)
- Dean of Students
- Dean of Workforce Development
- Executive Director of Faculty Affairs
- Executive Director of Human Resources (Acting)
- General Counsel
- Special Assistant to the Chancellor

#### COMMUNITY/EXTERNAL CONSTITUENTS

- Director Human Resources, JW Marriott Starr Pass Resort and Spa; Hospitality Advisory Committee
- Director of HR, The Westin La Paluma
- Director, Tucson Electric Power Co.
- Industry Partner, CAD Advisory
- Industry Partner, First EMS Advisory Committee Chair
- Machine Tool Technology Advisor, South Arizona Manufacturers Partners
- PPGP CEO

#### STUDENTS

- Associate of Science Transfer, Club Officer of Student Interaction Club, Global Peer
- Associate of Science, Senate, Honors
- Business, Phi Theta Kappa Treasurer
- Engineering

## 2.C - Core Component 2.C

The governing board of the institution is sufficiently autonomous to make decisions in the best interest of the institution and to assure its integrity.

1. The governing board's deliberations reflect priorities to preserve and enhance the institution.
2. The governing board reviews and considers the reasonable and relevant interests of the institution's internal and external constituencies during its decision-making deliberations.
3. 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.
4. The governing board delegates day-to-day management of the institution to the administration and expects the faculty to oversee academic matters.

### Rating

Met

### Evidence

PCC's Board of Governors is responsible for approving the college's strategic direction, approves the college's Strategic Plan, and periodically reviews the college's mission, vision and values statements. It is responsible for authorizing the expenditure of funds to meet the college's needs as presented in the Strategic Enrollment Management Plan, the Educational and Facilities Master Plans, and the Diversity, Equity and Inclusion Plan. The Board is the final approval entity for activating new programs and deactivating programs that are no longer viable.

The Board provides means whereby stakeholders can submit concerns and invites attendance at board meetings. It is committed to transparency and as such makes meeting minutes available online. The community can attend meetings in person or through live-stream and there is an opportunity during meetings for public comment. The Board also ensures that it follows open meeting laws.

The All Employee Representative Council (AERC) and the All College Council (ACC) have published the guidelines on their web pages on how to submit concerns on personnel and college issues. PCC also has a formal policy and established procedures for submitting concerns/complaints and suggesting revisions to the Administrative Procedures manual.

The Board's Finance and Audit Committee and the Human Resources Advisory Committee, which include Board members and external community stakeholders, participate in making recommendations. Furthermore, the budget is presented to the Finance and Audit committee for review before it goes to the Board for the approval. In the spirit of transparency, these committees' reports and meeting minutes are available on their respective web pages.

Board members are elected to six-year terms and are subject to state ethics and conflict of interest laws. The Board's bylaws outline expectations related to ethical behavior and conduct.

The Board by policy does not make decisions related to academic affairs except for activating or deactivating programs; academic and pedagogical decisions are the responsibility of the provost, per the Board by-laws. The day-to-day functioning of the college is delegated to the Chancellor. The duties of the Board and the chancellor are codified in the Board by-laws. The Board has done a 360 evaluation of the Chancellor, demonstrating that it is responsive to its duties. Board members have also attended board training to improve their understanding of their roles and duties.

Faculty responsibilities are codified in the Curriculum Procedures Manual. Faculty have the authority to make curricular and pedagogical decisions. During the site visit faculty reported that they also have oversight of dual enrollment and online courses.

The documentation provides sufficient evidence that the Board is autonomous and that it delegates day-to-day governing of the college to the chancellor.

### **Interim Monitoring (if applicable)**

*No Interim Monitoring Recommended.*

## Review Dashboard

Number	Title	Rating
1	Mission	
1.A	Core Component 1.A	Met
1.B	Core Component 1.B	Met
1.C	Core Component 1.C	Met
1.D	Core Component 1.D	Met
1.S	Criterion 1 - Summary	
2	Integrity: Ethical and Responsible Conduct	
2.A	Core Component 2.A	Met With Concerns
2.B	Core Component 2.B	Met
2.C	Core Component 2.C	Met
2.D	Core Component 2.D	Met
2.E	Core Component 2.E	Met
2.S	Criterion 2 - Summary	
3	Teaching and Learning: Quality, Resources, and Support	
3.A	Core Component 3.A	Met
3.B	Core Component 3.B	Met With Concerns
3.C	Core Component 3.C	Met
3.D	Core Component 3.D	Met
3.E	Core Component 3.E	Met
3.S	Criterion 3 - Summary	
4	Teaching and Learning: Evaluation and Improvement	
4.A	Core Component 4.A	Met With Concerns
4.B	Core Component 4.B	Met With Concerns
4.C	Core Component 4.C	Met
4.S	Criterion 4 - Summary	
5	Resources, Planning, and Institutional Effectiveness	
5.A	Core Component 5.A	Met With Concerns
5.B	Core Component 5.B	Met
5.C	Core Component 5.C	Met With Concerns
5.D	Core Component 5.D	Met
5.S	Criterion 5 - Summary	



# **EXHIBIT 12**

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MEMORANDUM

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**TO:** Mary Ellen Simonson  
**FROM:** Katie Derrig  
**DATE:** March 14, 2022  
**SUBJECT:** March 10, 2022 Pima County Community College Governing Board Meeting on Proposed Revisions to Bylaws

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The purpose of the March 10, 2022, meeting with the Pima County Community College (“PCCC”) Governing Board was to continue discussing suggested revisions to the Board’s Bylaws. Chancellor Lee Lambert, incoming Chair Cat Ripley, and Board members Demion Clinco, Maria Garcia, Luis Gonzales, and Dr. Meredith Hay were in attendance. Also in attendance were Dr. Bruce Moses, the Vice Chancellor for Educational Services & Institutional Integrity of PCCC, and PCCC General Counsel Jeff Silvyn.

Mary Ellen began the session by reviewing the first several slides of her PowerPoint recapping the progress of the February 17 meeting. Next, she reviewed the proposed options for revisions that had been raised at the last meeting and then asked if any of the members had anything to add to what she described or if the points were fair as is.

**Monthly vs. Quarterly Reviews of Chancellor**

Mr. Clinco pointed out that the first three recommendations were in one bucket and related to each other, whereas the last two were in a separate bucket. He stated that he supported the last two recommendations. Mr. Clinco then asked for clarification on the recommendation of doing quarterly evaluations of the Chancellor, whether this would be replacing the already in place monthly review through the executive session or if it would be in addition to the monthly sessions. It was unclear to him what exactly was the ultimate intent or purpose of this recommendation. Mary Ellen stated that Ms. Ripley had already raised the fact that they did a monthly review, and it would be more time and effort to do an additional quarterly review.

Mary Ellen noted that this point was to incorporate everyone’s viewpoint in terms of having a more significant discussion on a monthly basis of the monitoring efforts that the Board must do. She then asked if this first option would incorporate Ms. Garcia’s and Mr. Gonzalez’s points in the second and third options or if the point about a quarterly or semi-annual review would be in addition to a monthly basis review. Ms. Ripley explained that the first point is to have a more interactive process because the Chancellor currently provides the status of one or two goals every month. However, she pointed out that so far, none of

the Board members has really said anything when he provided this information. She believes that if they force themselves to provide feedback during this process, it will put them to work and make it a more interactive process. Ms. Ripley liked the idea of a more interactive monthly process because it lets them focus on one goal at a time and makes it more “palatable.”

Dr. Hay then asked if there were any limits to the dialogue that could take place at an executive session. Mr. Silvyn explained that they could discuss the duties or performance of the Chancellor at every executive session. However, it was not clear to him if the quarterly review that they were discussing was to be structured like an annual review. Ms. Silvyn continued to say that the monthly review is informal and does not provide formal documentation of whether the Chancellor is on track, nor does it provide him with any rating. He told the group the structure of such a review is something to think about and asked what they would want to be the desired outcome.

Dr. Hay responded by asking if they could add another 30 minutes to the executive session once a quarter instead of adding another meeting entirely. Ms. Ripley agreed that this suggestion made sense. She then stated that it forces them to do their homework of reading the documentation the Chancellor provides so they can have a more professional discussion. Mr. Clinco had two questions in response to this. He noted that they currently have a dashboard tool that was made to make it clearer how the Chancellor was progressing on his goals, and he asked if the Board members were dissatisfied with this tool. Mr. Clinco stated that, based on the last meeting, he anticipated a robust discussion of the Chancellor’s performance on his goals during the executive session, but there was not. To him, this indicated that everyone was satisfied with the Chancellor’s progress. He pointed out that it is on all of them to engage and speak up if they have something to say, and he asked what the point is in adding additional time if no one is saying anything at the executive sessions as they are now.

Ms. Ripley responded, saying she would not mind doing a quarterly review. However, she wanted the group first to talk seriously about engaging in the process they have now correctly. She said they need to do work before the executive sessions and come with questions to the session for the Chancellor as they already had time allocated for this. Ms. Ripley also stated that she liked the dashboard tool as it makes it easier to prepare for the monthly meetings. She noted that the executive sessions are their chance every month to look into accountability or oversight; but no one has done anything beyond nodding their heads at what the Chancellor says during the meetings. Ms. Ripley suggested that the Board just make the process they currently have actually function as it is supposed to.

Mary Ellen asked Mr. Gonzalez and Ms. Garcia what they thought of this proposal. Mr. Gonzalez stated that the purpose of this session was to review the Board’s Bylaws, and he said that he was not comfortable speaking in front of the Chancellor during this. He also pointed out that the Chancellor is their only employee, and they are talking about his performance during this, so he asked if the Chancellor could leave so they could have a full discussion without him present. Mr. Silvyn asked Mr. Gonzalez to clarify if he was asking to discuss the process of reviewing the Chancellor or wanted to make specific comments about his performance. Mr. Gonzalez stated that this was to review the Board’s Bylaws that

they currently have. He then said that he had been having problems with the dashboard tool, which is one of the disagreements he has.

Another example Mr. Gonzalez gave was that no one said or discussed anything when they went through the executive session the day before. Mr. Gonzalez noted that he liked the idea of having a 30-minute review at the executive session so they could fully share what they wanted to, but at that point, the Chancellor should not be present. His concern was that they needed more time and more from the Chancellor himself; he pointed out that the Chancellor only presented on his goal for a minute or so at the last executive session. Mr. Gonzalez stated that he would like to have a quarterly review where they can ask the questions they need to ask.

Mr. Silvyn asked Mr. Gonzalez to clarify if he is asking if they could take a portion of time to talk about the Chancellor and ask questions during the executive session. Mr. Gonzalez said this was exactly what he was asking for and noted that the Board needs time to reflect, share, and give feedback. Ms. Ripley said that she understands what Mr. Gonzalez is saying but pointed out that this is why they do the monthly reviews. Mr. Gonzalez reiterated that the Chancellor only gave a one-minute presentation at the last executive session. Ms. Ripley responded by pointing out that the Chancellor had provided all of the relevant information prior to the meeting so they could prepare their questions ahead of time. Mr. Gonzalez then stated that they should all take advantage of that opportunity and then said he liked the idea of having 30 more minutes to meet as a Board to discuss what the Chancellor has presented.

Dr. Hay stated that Mr. Gonzalez did not ask any questions at the last executive session. She then noted that if he was having any issues with opening the documents from the Chancellor, it is his responsibility to call the office to get a copy he can open. Mr. Gonzalez stated that his issue was not about not being able to open the document but more that the Chancellor only gave a one-minute presentation. Dr. Hay told Mr. Gonzalez that he could have asked questions because he had the document ahead of time, and she urged him to ask his questions during the next executive session. He agreed and asked her to clarify what she meant by "doing the work." Dr. Hay stated this would be reading the document, outlining questions he wants to ask, and asking for time to ask the questions; however, she noted that he did not do this at the last session.

Mary Ellen asked Mr. Gonzalez to clarify. She stated that it sounds like he cannot open the dashboard document at times, and she understands that this document is helpful for the executive session. She said that if he cannot open it, they need IT to help him review it ahead of the next meeting so that he can understand what questions to ask. She then asked if staff could work with him on this. Mr. Gonzalez said that he planned to work with IT the next day to resolve this issue. He then pivoted to reiterate that he strongly believes that doing a quarterly review is more efficient and productive than the monthly review. He said that the 30 minutes additional each quarter might not be enough time. He believes that they need to do an extensive review quarterly to evaluate the only employee they have.

Ms. Ripley noted that she is hearing a lot of terminology in this discussion on oversight and holding the Chancellor accountable. She said that they evaluate the Chancellor's work at every executive and regular session. Ms. Ripley also explained that all other employees are responsible to him, and all of their reporting every month is what the Board should be taking notes of and evaluating as well. This is why the monthly meetings are so important. Ms. Ripley continued to say that it is another thing if there is a big problem and the Chancellor is not doing his work, and they can call a special session for that. However, she believes they should try to make the current system work. A lot of work that goes into setting up Board meetings, and after a certain point, there are diminishing returns in adding more meetings.

Ms. Garcia stated that she believes the quarterly review is probably good, but she thinks six months is best. She wants a more structured process. She stated she did not mind the current executive session process where they focus on goals each month; however, she would like to see a consolidated report on everything semi-annually. This way, they could better dive into what they see or what needs to be added and be better prepared for the yearly meeting.

Mr. Clinco pointed to Article I Section 10 on complying with collaborative efforts, participating productively as a team, and reciprocal shared governance principles. He then asked Ms. Garcia if she had scheduled time to speak with the Chancellor since our last session to comply with the spirit of this provision. Ms. Garcia told him not to "go there," but Mr. Clinco noted that this tension goes to the crux of the issue as what they are trying to do is a collaborative team effort. Ms. Garcia stated that she does not understand why she needs to meet with him alone unless she has something she specifically wants to talk to him about. Mr. Clinco responded by saying that reciprocal collaboration means more than just coming to the meetings with a concern and expecting that it will transform the institution. He stated that they need to have conversations with the Chancellor on the concerns and think through resolutions. Mr. Clinco then stated that every single Board meeting is an evaluation tool and shows the institution's progress on a month-to-month basis.

Mary Ellen interjected, saying that there seems to be a consensus that there should be more discussion or an open 30 minutes at the monthly meetings (or quarterly) for discussion in more detail than the Board otherwise would have if people wanted to address specific points. Ms. Ripley stated that they all need to work together. She said she also wanted structure, and then she explained the process of finding the executive summary agenda and agenda summary in the dashboard tool. She believes that any other consolidated report would be redundant. Ms. Ripley then explained that she really had to do work to understand the documents she was being provided and said that she did not know what other process or structure they could offer. The only thing that she could think of was to be prepared at every meeting that the Chancellor reports on a goal. She noted that they have five days to review the reports before the meetings, and they could maybe have them sent earlier to help them prepare to ask questions. Ms. Garcia stated that she was talking about the structure on the Chancellor's goals, not other things. She wanted structured goals on what the Chancellor has accomplished on a quarterly or semi-annual basis.

Dr. Hay told Ms. Garcia that these documents were available and asked if Ms. Garcia had read them. She asked what else Ms. Garcia would need on top of these. Ms. Ripley seconded this, stating the documents are all there, and the Chancellor just reports on one goal to be more in-depth on that particular item. Mary Ellen then asked if Ms. Garcia wanted a document that consolidated the progress on each goal in each quarter to date. Dr. Hay noted that such documentation is already available on the dashboard. Ms. Ripley suggested they might need a dashboard tutorial. Mary Ellen followed up on this and said the easiest thing to address Ms. Garcia's point might be to have a brief session on how best to read the dashboard. This way, they can assess whether there is enough consolidated information on a quarterly basis going forward. Dr. Hay agreed with this, but she noted that they each have a responsibility to do their own homework. She also said that if they want a "cliff notes" version, that can be provided, but they still need to read all of the documentation provided, not just this consolidated version. Mary Ellen stated that she believes everyone understands this, and this is a good way to prepare for the next time. She laid out that Mr. Gonzalez will work on fixing his dashboard issues himself, and then the group will see if there is enough information in the dashboard.

Mr. Clinco turned the conversation to ask Chancellor Lambert what type of feedback from the Board members would be helpful to him in achieving his goals. Chancellor Lambert explained that when he asks if there are any questions, he wants to know what is on the Board members' minds. When he does not hear anything, this indicates to him that the Board is satisfied. If that is not the case, he needs to know so that he can course correct, otherwise he will continue on the path he is doing down. Chancellor Lambert stated he did not want to be surprised at his evaluation, and he has a hard time going into the final evaluation and seeing low scores when he is showing them every month that he has made his goals. He also pointed out that they may differ on how he goes about achieving the goals but that there are different ways to get things done. If this is the issue, this needs to be shared with him as well. Chancellor Lambert pointed out that other Board members tell him these things when they are in individual meetings with him. He then noted that the point of the evaluation is to be summative, rather than being a "gotcha," and to develop the person to do the best that they can do. He cannot do this if he does not know what is on the Board members' minds.

Mary Ellen then stated that they had come to an understanding of what they need to do to meet people's needs. She said we would report back on what we think a good wording is with respect to a proposed revision here. She also noted that there seems to be a consensus that on a quarterly basis, there will be more detailed discussion for 30 minutes. And there will be a consolidated version in writing of what progress has been made on the Chancellor's goals on a quarterly basis. There will also be a fix to the understanding of the dashboard or fix of any issues with it. She then asked if this was a fair summary of where they were and if these met everyone's needs.

Mr. Silvyn stated he had a procedural suggestion. He explained that the Bylaws are a framework, and what they all think the best course of action is might change in three or four months. Because of this, they might need two different documents. The Bylaws are to be more generally structured, and then they could have a separate document like a Board manual that is easier to change on a more regular basis. If they put changes in the Bylaws,

they have to prove to the HLC that they are abiding by those provisions. Mr. Silvyn stated he appreciated that they want more structure, but it might be better to do that elsewhere where it is easier to change. Ms. Ripley stated she agreed with this idea. She explained that the Bylaws are general, and the “how” piece is separate. She suggested trying their plans out collegially as a Board so that they are not written in stone. She noted that next month is the retreat where they will do the evaluation, June is their last meeting, and then they break for two months. She suggested they could pick it up from there when they come back. There was a general consensus on this point.

### **Key Takeaways/Proposals:**

- 1. Adding 30 minutes to executive session once a quarter instead of having separate review meetings quarterly**
  - a. Having Chancellor leave during this time period so Board can discuss his performance without him present**
- 2. Board to work on making the process they currently have actually function as it is supposed to, i.e., engage in the current monthly review process with substantive discussion and prepare questions ahead of time**
  - a. Have packet sent out earlier than five days before executive session**
- 3. Semi-annual consolidated report on Chancellor’s progress on goals**
- 4. Tutorial session on dashboard tool**
- 5. Have Bylaws remain more general and include these provisions in a Board manual or similar document that is easier to change on a more regular basis**

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### **One- vs. Two-Year Chair Term**

Mary Ellen then moved back into her PowerPoint, going through slides 14 to 21. At this point, Mary Ellen summarized the different positions the Board members had on whether to have a one- or two-year term for Chair and Vice Chair.

Ms. Garcia stated that Mr. Clinco had served as Chair for four years and now as Vice Chair for an additional two years, putting him in leadership for seven or eight years. It did not matter as much to her whether it is a one- or two-year term. She noted that the Board never gives other people the opportunity to rotate or be in these positions. Ms. Garcia also stated that Mr. Clinco had said they were not competent for the positions, but she pointed out they were elected. In her view, she believed having a one-year term is extremely important, and if someone wants to continue being Chair, they will always vote that way. Ms. Garcia explained that they have different opinions and points of view to represent the entire community, but the Board is not giving them an opportunity to lead. As the Board is 3 to 2, the other “side” always has the votes, and they do not get a voice.

Mr. Clinco reiterated that they had not talked about competence for election on the Board. What they said last time had to do with disqualifying activities that violated the institution's Bylaws. He pointed out that Ms. Garcia voted to elect him for a second time. However, she failed to read the Bylaws to understand that it was a two-year term, and this in and of itself is an abdication of her responsibility. Mr. Clinco also stated that, although they all agreed to reciprocal communication in the last session, Ms. Garcia made no effort to reach out to the Chancellor. He believed that Ms. Garcia had a misunderstanding of what it means to be on the Board or be the Chair as it is in the Bylaws or by national standards. He stated he was not trying to take over the Board, but she has chosen to violate the Bylaws of the Board repeatedly. Finally, he noted that by violating the laws of the institution, Ms. Garcia is undermining the intent of having a collaborative and functioning democratic Board.

Mary Ellen stopped Mr. Clinco and Ms. Garcia to state they had summarized their positions well. She then stated she wanted to cut to the chase and show a compromise position (on slide 26). First, she read through slide 25. Mary Ellen noted that one of the key provisions they had reached consensus on was to include Section 10 of Article I. Every Board member's obligation is to participate productively as a team, adhering to reciprocal shared governance principles. Slide 26 reinforces this point. Mary Ellen explained that this was a compromise proposal based on the discussion from the last meeting. She noted that Mr. Gonzalez and Ms. Garcia had asked to return to a one-year term. She then asked if the Board to consider revising it to the one-year term contingent on including language that any nominee must demonstrate compliance with all Board Bylaws and policies, and a commitment to continued compliance. That is, to be Chair, they have to agree to be consistent with Article I Section 10. She further explained that this is an attempt to get common ground concerning this issue, and even with a one-year term, they can elect whoever is going to be in compliance. Mary Ellen then asked Ms. Garcia what her thoughts were on this proposal as this was an issue she had raised.

Ms. Garcia said she agreed with adding this provision. However, she believed they could not resolve the trust issue at that moment. She also noted that they would vote on this later, and she was going to hold off on discussing this particular item until after the Higher Learning Commission ("HLC") site visit. Ms. Ripley asked Ms. Garcia to expand on the "trust issue." Ms. Garcia said it was a mistrust of the Vice Chair and Chancellor. She said things have happened that need to be cleared up and will be cleared up after the HLC comes. Ms. Ripley noted there was a lot to unpack there. She explained that she had spoken to other Chairs, Vice Chairs, and Board members, and that oftentimes, a member will serve as Chair for seven to ten years. This could be because no one else wanted to step up, others did not have time, or the Chair was doing a great job. She noted that being Chair was a lot of work, more than she expected, and it is a big problem in the country that community colleges are losing Chancellors and Board members after a year or two. This causes a problem with continuity. Ms. Ripley explained that it had taken her a long time just to learn the position's responsibilities. That is why, for her, a two-year term is the only way she could think she could do a good job. She believed that her second year would be when she could really do a good job and help. Ms. Ripley stated it is not a matter of "fairness" but rather one of obligation and duty. Ms. Garcia responded by saying that every other school board has a one-year term.



## **Key Takeaways/Proposals:**

- 1. Board members remain split on one-year vs. two-year term for same reasons**
- 2. Seems to be agreement on adding compromise language**

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## **Allegations of Wrongful Conduct by Chancellor**

Mary Ellen brought the group back to the principles on slide 25. She asked Ms. Garcia if she were Chair or Vice Chair and continued to have trust issues that would not allow her to have meetings or communications directly with the Chancellor when necessary, how she thought she could be functioning in the best interests of the college or students. She noted she was not saying this in a negative way, but more of requiring Ms. Garcia to be thoughtful of how that would be productive for the college if there was a trust issue. Ms. Garcia said it was not necessarily an issue of trust or communication between herself and the Chancellor; it has to do with “things” outside that are happening and how things are being run. She noted that “people just don’t see it.” Mary Ellen asked Ms. Garcia to provide an example, and she stated that the Chancellor has said he needs the Chair to go to events with him or to the legislature. Ms. Garcia responded that those are not related to trust, and she believes the Chancellor has done a good job in those areas. Ms. Garcia then went on to say she cannot provide an example at this time but will do so later.

Mary Ellen then asked Ms. Garcia what she hopes to gain if the HLC interviewed her and discussed her concerns with the Chancellor about trust. Ms. Garcia responded she hoped “things will be fixed.” Ms. Ripley interjected and said that if Ms. Garcia told her something was wrong, she would do what she could to fix it. Mr. Clinco added that this went to the crux of the Bylaws themselves. He pointed out that if Ms. Garcia was aware of something that was wrong that was affecting the institution legally or ethically, she had a responsibility to address that. Ms. Garcia then explained that this was why she addressed her concerns with the Attorney General’s office. Mr. Clinco asked her to clarify if this was all related to the complaints she had already raised and that had already been investigated with no findings of an issue. Ms. Garcia stated this was correct.

Mary Ellen moved the conversation to Dr. Moses. She asked him what he perceived the HLC would do to assist with respect to the points Ms. Garcia raised. Dr. Moses explained that, as he stated before, if someone put an allegation out, there would need to be documentation and evidence to back it up. That was the only thing he could say for certain. He reiterated that the most important point for the HLC would be that there is documentation. Mr. Silvyn asked a question about the scope of the HLC review. He said he assumed that Ms. Garcia still thought there was a conflict of interest with respect to certain issues involving the Chancellor. However, two state agencies had already reached a conclusion on the issue and found no conflict of interest. He then asked if the HLC would still look into this issue even with these other findings. Dr. Moses said he could not answer that question. He assumed they would ask some questions about issues on the periphery, but he did not foresee a deep dive being done. He reiterated that the HLC would look at

2(c) and the core components. He also stated again that it would go back to whether there is documentation and were the policies and procedures being followed.

Dr. Hay then asked Dr. Moses if he had been having conversations with other Board members on information that would be presented to the HLC that they had not heard yet, including from Ms. Garcia or Mr. Gonzalez. Dr. Moses said he had not. Dr. Hay then asked Ms. Garcia and Mr. Gonzalez if they had a “surprise” they had not disclosed yet and what they feel they cannot say yet on their issues. Ms. Garcia stated it related to whether the Chair, Vice Chair, and Chancellor were independent or autonomous without any self-interest. Ms. Ripley stated she was confused, felt as if they were all talking around a giant issue, and noted they needed to be completely honest.

Mr. Gonzalez stated he wanted to respond to a couple of things. He went back to the evaluations of the Chancellor and noted they need to review whether they want to change it from an annual evaluation to a monthly, quarterly, or semi-annual review. He also noted that the references to them needing “cliff notes” or that they have surprise information that other Board members do not already have was very disrespectful and not true. He asked how he could trust them if they were making these types of implications. Finally, he pointed out that he felt that they had made progress last time but now felt they had taken a step backward.

Ms. Garcia also stated that she had asked Mary Ellen not to involve Dr. Moses in these meetings as he is going to a new job, and the Board members are making implications. She felt that “this is so wrong.” Ms. Ripley said she was confused, and communication is really important. She pointed out that it sounded like Ms. Garcia had information and did not want to share it with them. She said Ms. Garcia had said the information was there, but Ms. Ripley could not find it. That is what she believed Dr. Hay was getting at by saying they were keeping information from the other Board members. Ms. Ripley explained that they all need to share information to get through this process, and Ms. Garcia had laughed or smiled like she had a secret before. Ms. Garcia told Ms. Ripley that she was already aware of the information. Ms. Ripley responded by stating that Ms. Garcia had produced piles of documents and emails, but she found nothing in there. Ms. Garcia said that this is Ms. Ripley’s opinion, and someone else will decide that.

Mary Ellen then summarized that it sounded like for Article IV Section 2, even though the compromise language was an attempt to get common ground, it sparked other issues. She believed that Ms. Garcia was not comfortable reaching any conclusion herself or offering any substantive yes or no with respect to whether the language met her concerns until the HLC came. Mr. Silvyn noted that the site visit is from March 27th through the 29th. However, it could take several weeks to hear back from the HLC on any report being issued.

Mr. Gonzalez stated he had to leave at 11:00 a.m., and he does support a one-year term for Chair or Vice Chair. He stated that this was not a matter of fairness but of opportunity. Mary Ellen asked him if he had an opinion on the compromise language, and he agreed with it.

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Mary Ellen then went through the remaining slides of the recap PowerPoint. She explained that the remaining suggested Bylaw changes did not have anything controversial, so she believed it would not take nearly as long to discuss. She urged the members to review the PowerPoint ahead of time and come prepared with questions and any proposed changes from slide 34 of that PowerPoint forward.

Dr. Hay stated she did not see anything in the ethics chapters on what would happen if a Board member violated the Bylaws, and she would like to see this addressed. Mary Ellen told Dr. Hay that she has a new section of policies that deals with consequences and steps the Board can take if a Board member violated policies and Bylaws.

**Key Takeaways/Proposals:**

- 1. Ms. Garcia does not believe the conflict of interest allegations surrounding Chancellor Lambert have been resolved**
  - a. She will have more definitive response to compromise language after the HLC site visit**
- 2. HLC not likely to take a deep dive into this issue, but they would focus on documentation if they address it**

The session was then adjourned at approximately 11:00 a.m.

# **EXHIBIT 13**

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## Finance & Audit Committee

The Governing Board's Finance and Audit Committee facilitates continued improvements in College financial accountability and transparency. As part of its work, the Committee allows for better sharing of financial information with the Governing Board and other constituencies, including the public.

The Committee consists of:

- Two PCC Governing Board Members
- Five to eight community representatives
  - Professionally knowledgeable about finance, accounting, auditing, and/or investments
  - Recommended by the chairperson of the Committee and appointed by the PCC Governing Board

All members of the Committee shall be familiar with:

- The basics of PCC finance and accounting practices
- Understand PCC's business
- Generally understand internal control and risk management framework

To obtain this familiarity and understanding, Committee members will be provided training conducted by PCC.

Length of service will be expected to be at least one year and will be a maximum of two three-year terms. Due to the nature of some of the information, Committee members will be required to sign a confidentiality statement.

The Committee will meet no fewer than four times per year and more often as needed. All Committee members are expected to attend each meeting, in person or via tele- or videoconference. State of Arizona open meeting statutes A.R.S. §§ 38-431 to 431.09 will be applicable.

If you meet the qualifications above and are interested in becoming a member of the College's Finance and Audit Committee, please email a letter of interest and your resume to [financeadmin@pima.edu](mailto:financeadmin@pima.edu).

## Members

Governing Board Members:

- Demion Clinco
- Maria D. Garcia

Community Members:

- Jesus Manzanedo
- Ken Marcus (Chair-Elect)
- Scott Odom (Chair)
- Ben Tuchi
- Laura Ward
- Kathleen Witt

## Meetings

The Public is invited to attend all of the Governing Board's Finance and Audit Committee meetings except those portions of the meetings that are held in executive session.

## Additional Resources

- [Committee Charter](#)
- [Recent meeting documents](#)
- Annual Reports
  - [FY 2021-22](#)
  - [FY 2020-21](#)
  - [FY 2019-20](#)
  - [FY 2018-19](#)
  - [FY 2017-18](#)

View recent [meeting notices and minutes](#).


**Meeting Schedule: Fiscal Year 2022-2023**


Meeting Date	Start Time	Location*
August 26, 2022	9:00am	Zoom Webinar
October 21, 2022	9:00am	Zoom Webinar
December 9, 2022	9:00am	Zoom Webinar
February 17, 2023	9:00am	Zoom Webinar
April 21, 2023	9:00am	Zoom Webinar
June 16, 2023	9:00am	Zoom Webinar

*\*All meetings to be held at the PCC District Office unless otherwise noted.*





*To request a reasonable accommodation for individuals with disabilities, a minimum of 5 business days before the event is requested. Please allow 10 days for a sign language interpreter. Contact Phone: (520)206-4539; Fax: (520) 206-4567.*



  
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# **EXHIBIT 14**

## About Pima

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# Human Resources Advisory Committee

The Human Resources Advisory Committee assists the PCC Governing Board with oversight and monitoring of Human Resources. The Committee keeps the Board informed about pertinent HR matters but does not consider personnel issues specific to a particular individual.

The HR Advisory Committee will meet at least quarterly and more often as needed. All members are expected to attend each meeting, either in person or via tele- and video-conference.

State of Arizona open meeting status A.R.S. §§ 38-431 to 431.09 will be applicable.

## Composition

The HR Advisory Committee is composed of:

- PCC Governing Board members (2)
- Community Representatives (at least 3)
- PCC Assistant Vice Chancellor for Human Resources
- PCC General Counsel (Ex-Officio)

External HR executives will be appointed by the Assistant Vice Chancellor of Human Resources.

The community representatives shall be professionally knowledgeable about Human Resources' best practices, human capital management, human resource processes, performance evaluation, discipline and grievance procedures, organizational effectiveness of HR, HR as an agent of change, and/or HR as a business partner.

Length of service of community members is expected to be at least one year and no more than three years. The chair position will be for a one-year term and be rotated among committee members.

## Members

- Catherine Ripley, Pima Community College Governing Board, District 1 Representative
- Luis L. Gonzales, Pima Community College Governing Board, District 5 Representative
- Helena Rodrigues, Vice President and Chief Human Resources Officer, University of Arizona
- Paul Bellows, Chief Executive Officer, Be Good @ Doing Good
- Carleen McElroy Thompson, Chief Human Resources Officer, Pima Community College
- Jeff Silvyn, General Counsel, Pima Community College

## Objectives

1. The HR Advisory Committee will review the HR performance metrics to be reported annually to the Board at its June meeting. The HR Advisory Committee may make suggestions or request additional information as appropriate.
2. The HR Advisory Committee will review updates on the continuous improvement of Human Resources.
3. The HR Advisory Committee submits recommendations to the Board as appropriate.

## Additional Resources

- [Committee Charter](#)
- [Recent Meeting Documents](#)



# Committee Meetings

View recent [meeting notices and minutes](#).


## Meeting Schedule: Fiscal Year 2020 - 2021


Meeting Date	Start Time	Location*
August 27, 2020	8:30 a.m.	Zoom Webinar
November 19, 2020	8:30 a.m.	Zoom Webinar
February 11, 2021	8:30 a.m.	Zoom Webinar
May 13, 2021	8:30 a.m.	Zoom Webinar

\*All meetings will be held at the District Office in D-103 from 8:30 – 10:30 am unless otherwise published.

To request a reasonable accommodation for individuals with disabilities, a minimum of 5 business days before the event is requested. Please allow 10 days for a sign language interpreter. Contact Phone: (520)206-4539; Fax: (520) 206-4567.




  
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# **EXHIBIT 15**

15-1443. Meetings; officers; immunity.

A. Within twenty days after appointment of the first district board, the county school superintendent, or county school superintendents by joint action where the district consists of more than one county, shall call a meeting of the district board by giving at least ten days' notice by registered or certified mail to each board member. At the meeting the district board shall organize by electing a president and a secretary from among its members and may transact any other business relating to the affairs of the district.

B. Following the first election of members, the district board shall meet and organize in January each year and shall hold regular meetings at such time and place as the policies of the board provide. Special meetings may be held at the call of the president or upon a call issued in writing signed by a majority of the members of the district board.

C. Members of the district board are immune from personal liability with respect to all acts done and actions taken in good faith within the scope of their authority during duly constituted regular and special meetings.

# **EXHIBIT 16**



MARK BRNOVICH  
ATTORNEY GENERAL

OFFICE OF THE ATTORNEY GENERAL  
STATE OF ARIZONA

June 3, 2021

Lee D. Lambert, Chancellor  
c/o Jeff Silvyn, General Counsel  
Pima Community College  
4905C East Broadway Boulevard  
Tucson, Arizona 85709  
jsilvyn@pima.edu

Re: Opinion Request No. R21-008; Opinion No. I21-005

Pursuant to A.R.S. § 15-1448(H), and after receipt and review of the enclosed opinion to Demion Clinco, Chair of the Pima County Community College District Governing Board, the Attorney General hereby concurs in the "Brief Answer" on page 1: "The Governing Board is not required to hold elections for officers at every annual meeting; multi-year terms are permissible under A.R.S. §15-1443."

Sincerely,

A handwritten signature in blue ink that reads "Mark B" followed by a long horizontal flourish.

Mark Brnovich  
Attorney General

Enclosure

CC: Hon. Kathy Hoffman, Superintendent of Public Instruction



**Memorandum  
PimaCommunityCollege**

**To:** Demion Clinco  
Board Chair

**From:** Jeff Silvyn  
General Counsel

**Date:** April 2, 2021

**Re:** Interpretation of A.R.S. §15-1443

Issue: At the request of the Governing Board, I am providing an opinion regarding the interpretation of A.R.S. §15-1443; in particular, whether the bylaw provision allowing for two-year terms for officers complies with the applicable law, or whether the Governing Board is required to hold an election for chair and secretary at every annual organizational meeting.

Brief answer: The Governing Board is not required to hold elections for officers at every annual meeting; multi-year terms are permissible under A.R.S. §15-1443.

Analysis:

Pursuant to Arizona statute, the Board is required to hold meetings to organize. Specifically:

A. Within twenty days after appointment of the first district board, the county school superintendent, or county school superintendents by joint action where the district consists of more than one county, shall call a meeting of the district board by giving at least ten days' notice by registered or certified mail to each board member. At the meeting the district board shall organize by electing a president and a secretary from among its members and may transact any other business relating to the affairs of the district.

B. Following the first election of members, the district board shall meet and organize in January each year and shall hold regular meetings at such time and place as the policies of the board provide. Special meetings may be held at the call of the

president or upon a call issued in writing signed by a majority of the members of the district board.

#### A.R.S. §15-1443. Meetings; officers; immunity

Currently, the Pima College Governing Board bylaws provide that at the annual meeting, the Board shall elect a Chair and Vice Chair/Secretary for a term of two years. The relevant section provides:

Section 2. The Board shall nominate and elect officers for a term of two years at the annual meeting (Article VI, Section 3). Board members shall rotate through these offices based on their original swearing-in date. Exceptions can be made to this section by majority vote. Bylaws, Article IV (copy attached).

There does not appear to be an Arizona court opinion specifically addressing the provisions of A.R.S. §15-1443 related to election of board officers. Nor has the Arizona Attorney General issued an opinion on the subject. Accordingly, the analysis of the statute depends on the proper application of the rules of statutory construction, as defined by case law.

A cardinal rule of statutory construction is to follow the plain meaning of unambiguous language. Where the legislature uses a particular term in one place in a statute and excludes it from another place in the same statute, a court will not read that term into the provision from which the legislature chose to omit it. *Arizona Dept. of Revenue v. General Motors Acceptance Corp. ("GMAC")*, 188 Ariz. 441, 444-45, 937 P.2d 363, 366-67 (App. 1996); *see also Egan v. Fridlund-Horne*, 221 Ariz. 229, 239, 211 P.3d 1213, 1223, ("we presume that when the legislature uses different wording within a statutory scheme, it intends to give a different meaning and consequence to that language.") (App. 2009).

In *GMAC*, the Court was asked to examine the proper interpretation of a statute setting time limits for the State to pursue additional tax collection from an Arizona business. The statute in question, A.R.S. §42-113, established a general four year time limit from the due date or actual filing date of the return in question. The statute also contained an exception extending the date when the taxpayer entered an agreement with the IRS for an extension to address possible deficiencies in the federal tax return for the same year. *GMAC* argued this exception did not apply to situations in which the State claimed a deficiency based solely on a state tax issue rather than an adjustment based on a decision of the IRS. The Court rejected this interpretation, because there was no such language in the exception provision, noting a qualifier in one part of a statute will not be read into another part of the same statute. *Id.*

The Court applied the same principles to reach a similar result in *Awsienko v. Cohen*, 227 Ariz. 256, 258-60, 257 P.3d 175, 178-79 (App. 2011). That decision involved a dispute over the qualifications required for an expert witness in a medical malpractice case. The pertinent statute provided:

If the party against whom ... the testimony is offered is or claims to be a specialist, [the witness must] **specialize [ ] at the time of the occurrence that is the basis for the action in the same specialty or claimed specialty as the party against whom ... the testimony is offered**. If the party against whom ...the testimony is offered is or claims to be a specialist who is board-certified, **the expert witness shall be a specialist who is board-certified in that specialty or claimed specialty**. ARS 12-2604(A); *Id.* at 177, 258 (emphasis added in the opinion).

The claimant had offered as an expert witness a physician who was board-certified in an applicable specialty but who had not been board-certified at the time of the incident giving rise to the malpractice claim. For that reason, the trial court had precluded use of the witness, interpreting the statute to mean the timing requirement applied both to specialists and board-certification. The Court of Appeals reversed, noting that the provision about timing was absent from the sentence about board-certified specialists and holding that adding the timing requirement in one provision into the other was error. *Id.* at 178-79, 259-60.

With respect to the statute in question for the College, A.R.S. §15-1443, Section A specifies the actions a district governing board shall take at the first meeting following formation of the district. That section provides for the board to organize by electing a president and secretary. Section B addresses all subsequent meetings and specifies only that the board shall meet in January of each year to organize.

Based on the statutory construction principles and examples noted above, the requirements of Section A apply only to the first meeting. It is not appropriate to infer that the one requirement related to organizing at the first meeting must also apply to every subsequent annual organization meeting. If the legislature had intended so, it could have specified such a requirement. For example, with respect to school district governing boards, the legislature did provide explicit direction for electing a president every year at the organization meeting. See A.R.S. §15-321. Because the legislature used different language to specify requirements for the election of officers for a community college district governing board compared to the officers of a school district governing board, the legislature must have intended different results. *In re Hyrum H*, 212 Ariz. 328, 332, 131 P.3d 1058, 1062 (App. 2006)



The language of A.R.S. §15-1443 indicates a clear legislative intent that a community college governing board have a president and secretary by directing that they be elected at the very first meeting. However, the statutory language contains no indication of legislative intent concerning the matters to be addressed at any subsequent meeting. This means the governing board has discretion regarding when and how to hold elections for officers following the first meeting. See A.R.S. §15-1445 (the Governing Board has the authority and responsibility to adopt policies for the government of the district).

# **EXHIBIT 17**

PRIVILEGED AND CONFIDENTIAL ATTORNEY CLIENT COMMUNICATION

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**REPORT OF THE INVESTIGATION OF THE PROCUREMENT OF AN  
ENERGY MANAGEMENT PROGRAM AND RECOMMENDATIONS**

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Susan Plimpton Segal, Esq.

Gust Rosenfeld, PLC

March 10, 2021

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## I. Introduction and Background.

On January 26, 2021, Pima County Community College District (“College”) General Counsel Jeffrey Silvyn asked me, as outside counsel, to conduct an investigation of a Comprehensive, Integrated Energy Management Program (“EMP”) procurement (“EMP Procurement”).<sup>1</sup> The EMP Procurement ultimately resulted in the award of a contract (“EMP Contract”)<sup>2</sup> to Trane U.S. Inc. (“Trane”) by the College Governing Board (Board”) on June 3, 2020.

My assignment arose from a letter written by Board members Maria Garcia and Luis L. Gonzales to Arizona Auditor General Lindsay Perry, dated January 14, 2021 (the “Letter”).<sup>3</sup> Tab 1. In the Letter, Ms. Garcia and Mr. Gonzales requested that the Arizona Auditor General conduct an audit of the EMP Procurement. The Letter specifically referred to emails containing communications between Trane Director of Integrated Solutions Jim Knutson and employees of the District.

Subsequently, the Arizona Auditor General declined to conduct the requested audit. In an email to Ms. Garcia and Mr. Gonzales from Gretchen Augustine, Arizona Auditor General Division of Financial Investigations Lead Manager, dated February 11, 2021, Ms. Augustine stated the following:

We have reviewed the documents you provided and have concluded on the following. Specifically, the college district does not follow the State Procurement Statutes, but instead has its own procurement rules and therefore this Office has no authority to conduct an internal review of potential rule violations. **Further, the emails you provided do not establish any obvious violations of the State Conflict of Interest Statutes.** It appears that the concerns brought forth are internal and the college district should

---

<sup>1</sup> My qualifications in the area of Arizona public procurement law can be found at [https://gustlaw.com/attorneys3.tpl?GustLaw=Susan\\_Plimpton\\_Segal](https://gustlaw.com/attorneys3.tpl?GustLaw=Susan_Plimpton_Segal). In addition to that information, I am providing my specific background relevant to this investigation. In 1983, I was one of four persons who drafted the Arizona Procurement Code that applies to state agencies. Since then, I advised on changes to that code and the School Procurement Code. I have presented to numerous groups representing public agencies on the topic of public procurement. I have authored Attorney General legal opinions on the topic while employed by the Arizona Attorney General and I am author of a chapter on construction procurement in a book entitled *From the Ground Up*. I have been consulted as an expert witness on the topic of public procurement and I have investigated procurement practices of a variety of public entities. While I served as the Chief Counsel of Public Advocacy in the administration of Attorney General Terry Goddard, among other things, I supervised the attorneys in the School Fraud Unit.

<sup>2</sup> The full title of the EMP Contract is Comprehensive, Integrated Energy Management Program Agreement.

<sup>3</sup> Although Ms. Garcia and Mr. Gonzales identify themselves in the Letter as members of the College Board of Governors, by statute, they are Governing Board members and by law and policy, the Board is called the Governing Board. Arizona Revised Statute (“A.R.S.”) §15-1441., Board Policy 1.06, <https://www.pima.edu/about-pima/leadership-policies/policies/board-policies/docs-bp-01/BP-1-06.pdf>. I only point this out for the benefit of third parties who may not understand that they are one and the same.

conduct an internal review to determine if the district's policies were violated. As a result, we will not be conducting a further review of these issues at this time.

[Emphasis added.] Tab 2.

Although the College is not subject to State procurement statutes or the State Procurement Code,<sup>4</sup> its employees are subject to the Arizona conflict of interest ("Conflict of Interest") laws, which the Auditor General routinely addresses with respect to the conduct of officials of a variety of public entities. It is particularly noteworthy that the Auditor General concluded that "the emails . . . provided do not establish any obvious violations of the State Conflict of Interest Statutes." *Id.* See discussion below in Section XIII.

Prior to writing the Letter, Ms. Garcia and Mr. Gonzales raised concerns that Chancellor Lee Lambert's position as a nonsalaried officer of the Board of Directors of the nonprofit National Coalition of Certification Centers ("NC3") created a conflict of interest under Arizona's Conflict of Interest laws or College policies with respect to the award of the EMP Contract to Trane. Tab 3. I concluded, in a letter dated September 30, 2020, that there was no conflict of interest and no violation of College policy or the Arizona Conflict of Interest laws.

My legal analysis in my September 30, 2020, opinion was related solely to the question of whether Chancellor Lambert's service on the NC3 Board created a conflict of interest in connection with the EMP award and EMP Contract with Trane. Based on application of the law to the facts, I determined that the Chancellor did not violate any Arizona law or College policy by virtue of service on the nonprofit NC3 Board and his limited involvement with and participation in the EMP award and EMP Contract with Trane. Service as a nonsalaried officer on a nonprofit board is deemed only a remote interest under Arizona Conflict of Interest law, which do not constitute a prohibited conflict. A.R.S. §38-502(10)(a), see also Arizona Attorney General Agency Handbook (Revised 2018) ("Handbook") §8.3. If the public official or employee has only a remote interest, there is no need for further analysis. Further, Chancellor Lambert had no financial interest in the award of the EMP Contract. *Id.* My analysis and written findings were presented to the Board at a meeting held on October 6, 2020 and are set out in my letter attached to this report at Tab 3.

## **II. Purpose of Investigation and Scope of Review.**

The purpose of this investigation was to investigate the facts relating to the EMP Procurement and analyze that procurement in terms of requirements of law and policy. This task is to be distinguished from making a business judgment about the EMP

---

<sup>4</sup> State procurement rules are codified at Arizona Administrative Code (A.A.C.)R7-2-701 *et. seq.*,

transaction. In essence, my investigation constitutes the review suggested by the Arizona Auditor General. Tab 2.

With respect to my legal analysis for this report, I examined the EMP Procurement in light of Arizona Conflict of Interest laws and procurement laws and College policies. My findings and legal conclusions are set forth below.

### **III. Persons Interviewed.**

In connection with this investigation, I interviewed the following persons:

Dr. David Bea, Executive Vice Chancellor for Finance and Administration

David Davis, Energy Resource Manager

Jim Knutson, Trane Director of Integrated Solutions

Lee Lambert, Chancellor

Jan Posz, formerly a Senior Procurement Analyst

Terry Robinson, Director of Procurement & Payment Services, Chief Procurement Officer

Jeffrey Silvyn, General Counsel

William Ward, Vice Chancellor for Facilities.

Greg Wilson, Dean of Applied Technology

With the exception of Mr. Knutson, all of the above witnesses are current or former employees of the College.

### **IV. Documents Reviewed.**

In addition to the relevant College and Board policies and Arizona statutes, I examined and reviewed the following:

- Agenda of Governing Board Meeting of June 3, 2020. Tab 6.
- Arizona statutes referred to in this report.
- College policies and procedures referred to in this report.
- Conflict of Interest policies and Conflict of Interest Statements signed by all members of the Purchasing and Evaluation Committee for the Comprehensive, Integrated Energy Management Program. Tab 4.
- Decision regarding Ameresco Protest. Tab 8.
- Email from David Bea to members of the Committee dated September 10, 2019. Tab 9.
- Email from Gretchen Augustine dated February 11, 2021. Tab 2.
- Email from Jan Posz to Committee members dated September 20, 2019. Tab 13.

- Email from Jim Knutson to Chancellor Lambert dated May 6, 2019. Tab 10.
- Emails between David Davis and Jan Posz.
- Emails to and from Jim Knutson referenced herein.
- Emails to and from William Ward referred to herein.
- Emails referenced in the Letter (total of 518).
- EMP Contract.  
(<https://go.boarddocs.com/az/pima/Board.nsf/goto?open&id=BJPMBT595F4C>)
- Evaluation scoring sheets. Tab 5.
- Letter from Jan Posz to Dean Oakley, dated May 12, 2020.
- Minutes of Governing Board Meeting of June 3, 2020. Tab 6.
- Request for Proposal P20/10015 (the “RFP”) requesting proposals from qualified firms for consulting services to develop and implement a comprehensive, integrated energy management program.  
(<https://web19.pima.edu/administration/contracts-purchasing/docs/comprehensive-integrated-energy-managment-program.pdf>)
- Procurement protest from Ameresco. Tab 7.
- Second Round Questions. Tab 12.
- The Letter, including all attachments. Tab 1.
- Video of Board meeting of June 3, 2020.  
(<https://www.youtube.com/watch?v=ihooXUOgwhM>)

## V. Summary of Conclusions.

1. Arizona community college districts, such as the College, are exempt from the Arizona Procurement Code because they are not state governmental units. A.R.S. §41-2501; 1986 Ariz. Op. Att’y Gen. 9.
2. Contact with potential vendors before the Bid/RFP process commences is not prohibited.
3. Mr. Knutson’s pre-RFP emails are very aggressive and overreaching at times in terms of making suggestions about how the EMP Procurement should be conducted. They also are voluminous. However, these emails had no impact on how the procurement was conducted.
4. The email from Mr. Knutson to Ms. Posz about the logistics of the second round interview on February 11, 2019, and the email forwarding copies of the slides Trane used at the second round interview to Ms. Posz are not unusual or inappropriate.



5. Trane and its representatives were not involved in the initial preparation of the RFP. Had Trane been involved, most likely these specifications would have been more tailored to give Trane an advantage. The specifications do not do this.
6. No competitor claimed that the specifications were proprietary, too narrow, anticompetitive, or tailored to a particular vendor.
7. The specifications and the Scope of Work were not influenced by Trane.
8. The specifications and the Scope of Work were not proprietary, too narrow, anticompetitive, or tailored to a particular vendor.
9. I find nothing inappropriate in the membership of the Committee. The members selected for the Committee were logical resources and uniquely situated to assess proposals for the EMP project. Dr. Bea picked a variety of knowledgeable administrators and staff from diverse but relevant areas of the College, including representatives from the Facilities Department.
10. The emails sent by Mr. Knutson had no influence on the selection of Committee members. Mr. Knutson's suggestion as to the composition of the Committee set in his email of May 20, 2019, was not adopted.
11. The evaluation process was fair and appropriate. It adhered to College policy and fundamental principles of competitive procurement.
12. The situation with Mr. Davis could have been handled differently. Mr. Davis should have been instructed he was required to rank the vendors in good faith. If Mr. Davis continued to refuse to participate in good faith, a determination should have been made as to whether he needed to be replaced on the Committee. However, this incident did not invalidate the EMP procurement by any means.
13. The EMP Contract negotiations on behalf of the College with Trane were at arm's length and the drafts exchanged by the parties required multiple revisions and extensive interaction. The end result was a contract that protected the College's interests. The terms of the EMP Contract are fair to the College.
14. In an email to Ms. Garcia and Mr. Gonzales from Gretchen Augustine, Arizona Auditor General Division of Financial Investigations Lead Manager, dated February 11, 2021, Ms. Augustine stated that the emails provided to her by them "do not establish any obvious violations of the State Conflict of Interest" statutes. I concur with this conclusion.

15. I do not find that Chancellor Lambert did anything inappropriate, much less violated Arizona Conflict of Interest laws, with respect to his residential Trane unit. There was no offer of anything of value and Chancellor Lambert did not take anything of value. He did not follow up on Mr. Knutson's offer to have someone look at Chancellor Lambert's residential unit. Nor did Mr. Knutson offer to do anything for free. Chancellor Lambert did not take Mr. Knutson up on the offer to take a look at his residential unit, much less accept it.
16. Months later Chancellor Lambert asked Mr. Ward for a recommendation for a new residential unit after his residential air conditioner failed. As recommended by Mr. Ward, Chancellor Lambert purchased a Lennox or Rheem unit through a local dealer. Chancellor Lambert did not contact Mr. Knutson. This is further evidence that the previous conversation with Mr. Knutson had no effect on Chancellor Lambert.
17. There was no violation of Arizona law or College policy arising from Mr. Knutson's email dated May 6, 2019.
18. There is no evidence of anything of value in excess of \$25.00 given by Trane to any College employee, with the exception of the purchase of a foursome of golf in 2019 at a golf tournament sponsored by the College Foundation, which is not a violation of law or policy.

## **VI. Applicable Procurement Rules and Laws.**

### **A. Procurement Rules.**

Arizona community college districts, such as the College, are exempt from the Arizona Procurement Code because they are not state governmental units. A.R.S. §41-2501. 1986 Ariz. Op. Att'y Gen. 9 (1986). However, "even in the absence of a statutory bidding requirement, the board has a fiduciary obligation to obtain maximum return for each dollar spent which may, under some circumstances, require competitive bidding." 1986 Ariz. Op. Att'y Gen. 9.

Political subdivisions, such as the College, typically adopt their own procurement rules. In the case of the College, its administrative purchasing procedure is found at AP 4.01.05. <https://go.boarddocs.com/az/pima/Board.nsf/goto?open&id=BJPMBT595F4C>. In addition, the College has adopted procurement procedures that are contained in its *Purchasing Procedures Manual* ("Manual").

While they are similar in many ways to rules contained in the State procurement code, the rules and policies in the College Code and manual are separate and distinct from those in the State procurement code. This is true with respect to procurement rules adopted by all Arizona community colleges.

Some of the relevant sections of AP 4.01.05 are the following:

“Full and Open Competition” - when used with respect to a contract action, means all responsible vendors are permitted to compete for the College purchase.. Section 1 Definitions.

All College procurement transactions shall be conducted in a manner providing full and open competition consistent with the standards and subject to prohibited practices identified in the Uniform Guidance. Section 4, 4.2 Full and Open Competition.

The Specifications may not contain features or characteristics that are unduly restrictive to competition and may not require “brand name” product instead of allowing for “an equal or equivalent” product. Any vendor who has developed or assisted in development of the Solicitation Materials or any of its components shall be excluded from competing for such procurements. Section 5, 5.2 Solicitation Materials; Specifications.

College contracts may be awarded only to responsive, responsible vendor possessing the ability to perform successfully under the terms and conditions of a proposed procurement, considering all factors required by the Uniform Guidance. Section 6, 6.1 Vendor Selection Criteria.

The College shall, in all procurements of architect and engineering services and for purchases where it would assist the College in selecting qualified vendors, use a committee consisting of members of the public, students, and/or current College employees, qualified through experience or education. Section 6, 6.2 Selection Committees.

The *Purchasing Procedures Manual* (the “Manual”) is consistent with AP 4.01.05. For purposes of this report, this provision is particularly relevant:

#### 5.6 Contact with Vendors

Vendors play an important role in keeping College personnel informed of products and services available. Personnel are encouraged to take advantage of these contacts. However, specific rules must be followed when dealing with vendors to avoid financial liability, conflicts of interest and other misunderstandings. Avoid the following:

...

2. Do not contact a vendor after a Bid/RFP process has started;

...

7. Questions or clarifications should be addressed to the Procurement Services Department.

This section of the Manual makes it clear that contact with potential vendors before the Bid/RFP process commences is not prohibited. However, once the Bid/RFP process commences, communications with vendors should cease.

Ms. Posz and Mr. Robinson confirmed this is the rule. Further, in the case of the EMP Procurement, communications with Trane were limited after the RFP was issued. *See* Section VII.

### **B. Energy Savings Agreements.**

The content and terms of energy management agreements (also known as energy savings contracts) are governed by A.R.S. §34-105. The College retained qualified outside legal counsel to assist with negotiation and drafting of the EMP contract terms.

### **C. Conflict of Interest Laws and Policies.**

The applicable Conflict of Interest laws are set out in my letter of September 30, 2020, which is attached to this report at Tab 3. For purposes of this report, the focus is upon a) when an employee is required to disclose a conflict of interest and b) whether there were any improper gratuities or gifts that may have violated A.R.S. §§38-504 or 505.

The College Employee Handbook entitled “Ethical Standards and Conflict of Interest,” adopted September 11, 2020. That section also reiterates A.R.S. §38-501 through 511, which are the relevant statutory conflict of interest provisions for public employees.

## **VII. Timeline of the EMP Procurement and the EMP Contract.**

On November 13, 2019, the College issued Request for Proposal P20/10015 (the “RFP”) requesting proposals from qualified firms for consulting services to develop and implement a comprehensive, integrated energy management program.<sup>5</sup> The proposals were submitted on December 18, 2019. Five proposals were submitted, including one from Trane.<sup>6</sup>

The RFP Review and Evaluation Committee (the “Committee”) consisted of the following individuals: Greg Wilson, Committee Team Leader and College Dean of Applied Technology; James Russell, a College faculty member who had previously worked in the private sector for over 20 years in HVAC; Agnes Maina, College Director of Financial Services who previously worked for the Arizona Auditor General; Jessica Normoyle, a College Advanced Program Manager; David Clark, College Superintendent of Operations and Raj Murthy, College Chief Information Officer.<sup>7</sup> College Senior Procurement Analyst,

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<sup>5</sup> The RFP can be found at <https://web19.pima.edu/administration/contracts-purchasing/docs/comprehensive-integrated-energy-managment-program.pdf>.

<sup>6</sup> The other proposers/offerors were Ameresco, Bath, Bernhard, and Wendel.

<sup>7</sup> The process for the selection of Committee members is described in Section X.

Jan Posz, convened and facilitated the Committee. Each Committee member completed and signed a conflict of interest and confidentiality statement (the “Statement”). Tab 4. Dr. Bea, a non-voting member of the Committee, also signed the Statement.

In the Statement, each member of the Committee said:

. . . I acknowledge that I have been informed . . . that service [on the Committee] requires that I:

Understand that it is a conflict of interest and a violation of State statutes for a member of this committee or a relative of a member to have a substantial interest in supplying any equipment, material, supplies or services involved through this solicitation, and that it is my responsibility to avoid situations in which a conflict of interest may arise;

Understand that it is my legal and ethical responsibility to maintain the confidentiality of the process and agree that I will have no communication related in any way to the particular procurement, except during formal Committee meetings, with any Offeror or potential subcontractor to that Offeror prior to award, and that I will promptly disclose any attempted contacts to the Purchasing Department;

Agree it is not appropriate to reveal the content of any evaluation discussions to persons within or outside the College not directly involved in the process;

Agree to protect the materials submitted as confidential information; and

Agree to discuss confidential information only as part of the evaluation process, and to refrain from discussing, either during or after the evaluation process, any information outside of the Committee or within the hearing of other people not involved in the evaluation process.

*Id.*

After initial scoring, the Committee met and ranked Ameresco, Trane and Wendel as the top offerors. The Committee conducted interviews with representatives of each on February 11, 2019. The same Second Round Questions were asked of each vendor offeror. Tab 12.



The Committee’s review of the RFP responses and the scoring process were finalized on February 18, 2020, and the highest scored/ranked Offeror was Trane.<sup>8</sup> Tab 5. Trane was notified of this decision on May 12, 2020, by Ms. Posz in a letter, which included a formal contract.

Upon the College’s completion of extensive arm’s length contract negotiations with Trane, the EMP Contract was awarded to Trane by the Governing Board at its meeting of June 3, 2020.<sup>9</sup> Tab. 6.

Chancellor Lambert was not involved in the procurement evaluation process or the negotiation of the Contract terms. He signed the EMP Contract on June 29, 2020.

On July 17, 2020, Ameresco, which scored the second highest number of points, filed a protest of the award. Tab 7. The protest was deemed timely but, it was denied on the merits by Mr. Robinson on July 23, 2020. Tab 8. The protest informed Ameresco of its right to appeal, but Ameresco did not do so. *Id.*

### **VIII. Pre-Award Communications from Mr. Knutson.**

Because the concerns raised in the Letter are primarily related to Trane’s influence on the EMP Procurement process before the EMP Contract was awarded to Trane, my investigation focused on communications a) before the RFP was issued and b) between the date the RFP was issued and the date Trane was notified of the Committee’s decision on the successful offerer.

#### **A. Pre-RFP Communications.**

Jim Knutson sent a number of emails, primarily to Dean Wilson, before the RFP was issued on November 13, 2019. The Letter lists some of the emails that Ms. Garcia and Mr. Gonzales say are “troubling. Tab 1. I have reviewed all of the emails (over five hundred) that Mr. Luis A. Gonzales previously requested from the College.<sup>10</sup> *See* Letter.

Mr. Knutson’s pre-RFP emails are very aggressive and overreaching at times in terms of making suggestions about how the EMP Procurement should be conducted. They also are voluminous. However, as noted below, these emails had no impact on how the EMP Procurement was conducted.

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<sup>8</sup> The Evaluation process is addressed in Section XI.

<sup>9</sup> The actual motion was that the “Governing Board authorize the Chancellor or designee to execute an agreement with Trane, Inc. to develop a comprehensive energy management program that includes evaluation of Heating, Ventilation, and Air Conditioning and controls systems, recommendations for efficiency improvements, and integration of equipment and training into state-of-the-art living lab academic programming.” Tab 6.

<sup>10</sup> Mr. Luis A. Gonzales is a former Board member and not the current Board member Luis L. Gonzales. However, because the attachments to the Letter are some of those obtained by Luis A. Gonzales, it is logical to assume that these documents were part of those provided to Luis A. Gonzales in response to his public records request. Ms. Garcia and Mr. Luis L. Gonzales refer to a number of these emails in the Letter.

Dean Wilson told me that he ignored these emails. In his words, the “College is going to do what’s in its best interests” and he took the emails “with a grain of salt.” He added that the Knutson emails “did not have an influence in making the best decision for the College.” Regardless of what was said, Mr. Wilson added, “we are going to go forward with what is in the best interest of the College” as “we [the College] determine it to be”—not based on comments from or discussions with outside vendors.

Some of Mr. Knutson’s emails are harshly accusatory toward Mr. Ward. There were two emails in particular that had negative comments about Mr. Ward and what Mr. Knutson perceived was Mr. Ward’s bias against the EMP project: May 20, 2019 and June 4, 2019. I questioned Dean Wilson about the emails and, in particular, the June 4, 2020, email from Mr. Knutson to him. He recalled the email and said, “As you can see, I clearly did not respond.”

Mr. Ward said in his interview that he was offended by Mr. Knutson’s accusations against him in some of the emails. He referred to the June 4, 2020, email, which he had partially read when I interviewed him. Tab 1. Mr. Ward said, “I am offended this happened” and “I’m upset this [the email] is a public record.”

Mr. Ward distinguished Mr. Knutson’s conduct from Trane’s ability to perform. He said he likes Trane generally, is a “massive supporter of Trane companies,” and has worked successfully with Trane companies on other projects. However, Mr. Ward deems the “antics” of Mr. Knutson and Mr. Knutson’s emails to be “very concerning.” He also expressed that he could not imagine that Trane would condone Mr. Knutson’s conduct. He later added, referring to the concerns that have arisen, “This is all on Knutson.”

Mr. Knutson, who was interviewed with a Trane attorney present, stated that he felt some antagonism from Mr. Ward and that Mr. Ward was shutting his team of engineers out while they were doing feasibility studies. Mr. Ward explained that this was not true and presented logical reasons why his team was not available. One reason is that the College was closed for a period due to the Covid-19 pandemic. The other reason, he said, is that the Trane engineers “just showed up.”

#### **B. Pre-Award Notification Communications.**

There were no emails between the date the RFP was issued and the date Trane was notified of the Committee’s decision on the successful offerer that raise issues as to the EMP Procurement. There is one email from Mr. Knutson to Ms. Posz that was sent before the second round interview on February 11, 2019, concerning the logistics of the meeting, and an email sent after the second round interview on February 11, 2019, sending copies of the slides Trane used at the second round interview to Ms. Posz. This type of communication is not unusual or inappropriate.

#### **IX. Drafting of the RFP and Specifications for the EMP Procurement.**

Jan Posz explained the process for drafting the RFP and specifications. The College has template language for all requests for proposals, which typically includes all

but technical specifications that are uniquely aligned with the deliverable. The technical specifications are contained in the “Scope of Work” section of the RFP.

Dr. Bea drafted the scope of work and specifications. To do this, he conducted research on the internet on “living labs.” Among the many sources he consulted was the SEED (Sustainability Education and Economic Development) Center.<sup>11</sup> The College is a member of SEED, which consists of 480 community colleges throughout the nation. <https://theseedcenter.org/about/who-we-are/>. Chancellor Lambert and David Dore, College President of Campuses and Executive Vice Chancellor, serve on the advisory committee of the SEED Center, along with twenty-three other community college leaders from around the nation.<sup>12</sup>

Ms. Posz and Dr. Bea both emphatically stated that Trane and its representatives played no role in developing the RFP or the specifications. Mr. Knutson also said that Trane and its representatives had no role in the drafting of the specifications.

In fact, my examination of the Scope of Work shows that the specifications are very general, competitive, and non-proprietary or tailored to a particular brand or vendor, which allows for competition. Here is the language:

Pima Community College is seeking a qualified firm to develop and implement a comprehensive energy management program, to include system controls and equipment and training services for integration into the Center of Excellence of Applied Technology, including (but not limited to) the following expectations:

- Assessing current systems and equipment to develop lifecycle replacement plans for systems, controls, and equipment in a large multi-location organization
- Establishing and tracking sustainability and energy and cost reduction goals
- Identifying and/or providing funding sources and financing options suited to the College’s needs
- Implementing smart technology and data analytic platforms to monitor efficiency and optimize system performance

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<sup>11</sup> The SEED Center was originally a program of the American Association of Community Colleges, a nonprofit organization. The Center is now run by the nonprofit National Council for Workforce Education and Bellevue College. The American Association of Community Colleges (AACC) is a member organization that advocates on behalf of 1,200 community colleges and the nearly 12 million students they serve.

<sup>12</sup> For the same reasons set out in my September 30, 2020, letter, there is no “substantial interest” by virtue of their service on the advisory committee and thus no conflict of interest by virtue of their service on the advisory board of this non-profit entity.



- Designing and implementing living labs, including integrating industry-standard technology and training into academic curricula and facilitating hands-on, experiential learning opportunities for faculty and students
- Promoting program awareness and accomplishments via interactive web-based dashboards, publications, etc.

RFP, page 4.

Mr. Robinson and Ms. Posz confirmed that the specifications for this RFP were very general. In my interview, Ms. Posz did not express any concerns about the language in the Scope of Work.

It is my conclusion that Trane and its representatives were not involved in the initial preparation of the RFP. Had Trane been involved, most likely these specifications would have been more tailored to give Trane an advantage. The specifications do not do this.

It is also noteworthy that no competitor claimed that the specifications were proprietary, too narrow, anticompetitive, or tailored to a particular vendor. After the solicitation was issued, all interested vendors had the opportunity to submit questions on November 13, 2019. *See* RFP. Only one question pertaining to the current College systems was submitted.

There also is a process for a potential bidder/offeree to complain about specifications. *See* Manual, Section 5.7.<sup>13</sup> Once a Request For Proposal or Call for Bid is issued by a public procurement unit, it is not uncommon for potential vendors/offerees to challenge specifications in the pre-submission stage. *Id.* There was no such challenge to the RFP.

It is true that Mr. Knutson sent an email to Mr. Wilson with suggestions about language for the Investment Grade Audit and the Facility Condition Assessment, as well as public information from the Colorado State Architect. Tab 11. However, Dr. Bea did not rely on this information to prepare the Scope of Work or the specifications. Mr. Ward agrees that there is no evidence that the information Mr. Knutson sent to Mr. Wilson influenced the drafting of the Scope of Work or the specifications.

## **X. Selection of Evaluation Committee Members.**

Dr. Bea selected the Committee members, with the exception of the representatives of the Facilities Department. With respect to the Facilities Department, Dr. Bea communicated with Mr. Ward to ask him who should represent the Facilities Department on the Committee. Mr. Ward named David Clark, the Superintendent of Operations, and

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<sup>13</sup> The language of this section is substantially similar to A.A.C. R2-7-A901, which applies to state agencies and R7-2-1142, which applies to K-12 school districts.

David Davis, the Energy Resource Manager.<sup>14</sup> Dr. Bea then invited these individuals to join the committee. Both were initially on the Committee. Tab 9. However, Mr. Davis gave a “0” on each of the evaluation criteria for each vendor/offeror proposal. He ultimately left the Committee.<sup>15</sup>

The other members selected for the Committee were logical resources and uniquely situated to assess proposals for the EMP project. The living lab that is part of the project is to be situated on the Downtown campus and under the jurisdiction of Dean Wilson, the lead on the Committee. James Russell is a College faculty member who had previously worked in the private sector for over 20 years in HVAC. Agnes Maina, College Director of Financial Services, previously worked for the Arizona Auditor General and understands financial and operational compliance. In addition, the RFP called for the vendor/offeror to identify and/or provide funding sources and financing options suited to the College’s needs. Raj Murthy is the College Chief Information Officer. Part of the RFP called for integrating industry-standard technology and Implementing smart technology and data analytic platforms. Jessica Normoyle was a College Advanced Program Manager and was assigned to the College Workforce Development Division, which is logically connected to the EMP project. She was also selected to serve on the Committee because of her familiarity with the Center of Excellence for Applied Technology and her compliance role with Grants and Contracts.

At one point during a Board meeting, Ms. Garcia asked Mr. Ward whether he was involved in the selection process. Mr. Ward responded, “No.” Mr. Ward told me that he took the question to mean him personally. He stated that he was involved to the extent that he selected two members of his department to serve on the Committee.

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<sup>14</sup> Mr. Ward had high praise for David Clark. He said, “David Clark just wanted the best deal for the College.”

<sup>15</sup> Mr. Davis was notified on September 10, 2019, in an email from Dr. Bea that he had been selected to serve on the Committee. Tab 9. According to Mr. Robinson and Ms. Posz, Mr. Davis attended the first Committee meeting on January 16, 2020, that took place starting at 9am at the District Office. The procedure was for Ms. Posz to call out an evaluation criteria and then go around the room and each member would indicate their respective score for that criteria. Ms. Posz would record these scores and then calculate the average. Mr. Davis responded with the number 0 on each criteria for each vendor/offeror. When it appeared to Ms. Posz that Mr. Davis intended to give each vendor/offeror a 0 on each evaluation criteria, Ms. Posz met with him separately outside of the meeting room. Mr. Davis told me he gave each vendor/offeror a 0 on each criteria because he was not consulted on the specifications. This is confirmed by an email he sent to Ms. Posz after he left the January 16, 2020, meeting. Ms. Posz and Mr. Davis agreed he should not continue on the Committee.

The first time Mr. Davis indicated he would give each vendor a 0 score was on January 16, 2016. If Mr. Davis had problems with serving on the Committee or evaluating the proposals, he should have raised them to Ms. Posz. If he felt his concerns were not being addressed, he should have contacted Mr. Robinson. *See* discussion in section XI..

It would be unusual for the head of a major College business unit to participate in an RFP selection committee. In this case, Mr. Ward designated two representatives who were both subject matter experts.

I find nothing inappropriate in the membership of the Committee. When Mr. Davis dropped out of the process, Mr. Clark remained. Mr. Russell, who has expertise in HVAC continued on the Committee as well.

I also find that the emails sent by Mr. Knutson had no influence on the selection of Committee members. Mr. Knutson's suggestion as to the composition of the Committee sent in his email of May 20, 2019, was not adopted. *See* Tab 1. Dr. Bea was not influenced by the email, which was addressed to Dean Wilson. Dr. Bea picked a variety of knowledgeable administrators and staff from diverse but relevant areas of the College, including representatives from the Facilities Department.

**XI. The Evaluation Process.**

**A. The Process in General.**

After Dr. Bea selected the Committee members, Ms. Posz wrote an email on September 20, 2019, to each of them explaining the process. Tab 13. Among other things, Ms. Posz said:

You are committing to participate to the fullest in all meetings (2-3,). We will attempt to schedule them early enough to let you know so that you can schedule (or adjust) your schedule to make the meetings. At any point in the process you are not able to participate you will be removed as a voting member, however, you will be held to the confidentiality until after the award.

*Id.*

Once the proposals of offerors were submitted, the members of the Committee were asked to evaluate them and score them on the criteria listed in the RFP.<sup>16</sup> After initial scoring by Committee members, and at the meeting of January 16, 2020, the Committee ranked Ameresco, Trane and Wendel as the top offerors. The Committee conducted interviews with representatives of each of the top offerors on February 11, 2019.

Committee members were asked to bring their work to a February 18, 2019 meeting of the Committee. Ms. Posz facilitated the meeting. Each member was asked their score on each of the evaluation factors listed in the RFP. Tab 5. Ms. Posz added up the scores.

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<sup>16</sup> It is a fundamental principle of public procurement that the evaluation of proposals be based on the evaluation factors set out in the RFP. Compare, for example, A.A.C. R2-7-C301 and C317, which apply to state agencies and R7-2-1042 and 1046 in the School Procurement Code.

In the case of the EMP Procurement, the evaluation factors and their relative weights are set out on page 9 of 27 and R7-2-1042 and 1046 in the School Procurement Code.

The Committee's review of the RFP responses and the scoring process were finalized on February 18, 2020, and the highest scored/ranked offeror was Trane.

Ms. Posz also summarized the comments of the Committee on each of the offers. She distributed this to each Committee member and asked for feedback. Mr. Robinson reviewed the comments on February 19, 2019.

The evaluation process was fair and appropriate. It adhered to College policy and fundamental principles of competitive procurement.

#### **B. The Participation of Mr. Davis on the Committee.**

In my opinion, the situation with Mr. Davis could have been handled differently. *See* discussion in footnote 14 for background. When Mr. Davis came to the Committee meeting on January 16, 2019 and indicated, for the first time, that he was giving each vendor/offer a 0 score on each evaluation criteria, the matter should have been referred to his supervisor, Dr. Bea, and possibly Mr. Silvyn. Mr. Davis should have been instructed he was required to grade the proposals of each vendor/offeror in good faith. As Mr. Ward told me, "You should have to score whether you like it or not."<sup>17</sup>

If Mr. Davis continued to refuse to participate in good faith, a determination should have been made as to whether he needed to be replaced on the Committee. Mr. Ward told me, "I could have given them another name," which he said would have been Mike Baker, who is the Facilities Operations Manager.

Nonetheless, this incident does not invalidate the EMP Procurement by any means.

#### **XII. The Contract.**

Scott Holcomb of the Dickinson Wright law firm represented the College in negotiations with Trane. Mr. Holcomb has a high level of experience in procurement of energy management and energy management contracts.

Mr. Holcomb's negotiations with Trane on behalf of the College were at arm's length and the drafts exchanged by the parties required multiple revisions and extensive interaction. The end result was a contract that protected the College's interests. The terms are fair to the College.

#### **XIII. Allegations of Improper Gifts or Financial Benefits.**

##### **A. The May 6, 2019 Email.**

In the Letter, Ms. Garcia and Mr. Gonzales raise concern about an offer from Mr. Knutson to "send technicians and or an engineer" to look at Chancellor Lambert's Trane unit at his home.

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<sup>17</sup> Mr. Davis told Ms. Posz in a January 16, 2019, email that he felt that if he scored the EMP responses on the criteria established, it would imply his acceptance of them. Herein is an example of another missed opportunity, which was for someone to explain to him that participation in the evaluation did not imply his acceptance of the criteria.

In particular, the email of May 6, 2019, states:

[Y]ou mentioned you have a Trane unit on your home that is or has gotten loud. I'd like to see if one of our technicians and/or an engineer could stop by and take a look at it to see if we might help.

Let me know if that is of interest and we will have our team in Tucson get a site visit scheduled.

As the Arizona Auditor General concluded, the emails, including this email, that Ms. Garcia and Mr. Gonzales provided in the Letter “do not establish any obvious violations of the State Conflict of Interest Statutes.”

I do not find that Chancellor Lambert did anything inappropriate, much less violated Arizona Conflict of Interest laws, with respect to his residential Trane unit for the following reasons:

1. My investigation shows that the Trane commercial section is separate and apart from Trane residential operations. This was confirmed by Mr. Ward. Trane residential operations are far different from the Trane commercial operations.

Trane residential units and services are sold by separately and independently owned Trane dealers.

<https://www.trane.com/index.html>

Mr. Knutson had no ability to influence what was offered or sold by independent dealers of Trane residential units.

2. This email was sent six months before the RFP was issued.
3. Chancellor Lambert did not ask Trane to repair or replace his residential unit and the email does not state that. He merely complained that his home unit was loud.
4. Chancellor Lambert did not follow up on the offer to take a look at his residential unit, much less accept it.
5. Mr. Knutson did not offer to give the Chancellor anything of value. The Chancellor did not accept anything of value.
6. Months later Chancellor Lambert asked Mr. Ward for a recommendation for a new residential unit after his residential unit failed. Mr. Ward told me that he recommended Chancellor Lambert purchase a Lennox or Rheem unit through a local dealer. This is in fact what Chancellor Lambert did. He bought a Lennox unit through Costco. He did not



contact Mr. Knutson. This is further evidence that the previous conversation with Mr. Knutson had no effect on Chancellor Lambert.

7. Finally, Chancellor Lambert did not participate in the selection of Trane and I can find no evidence he made any attempt to influence the ultimate selection.

A.R.S. §38-502 *et. seq.* and College policy require a College employee to disclose when he or she has a substantial financial interest in a decision or transaction. In this case, no such interest existed. Even if Trane had offered to supply a Trane unit to Chancellor Lambert, which it did not do, Chancellor Lambert could not accept the offer. There is no disclosure requirement under such circumstances.

A.R.S. §38-504(C) and 505 prohibit a public employee from accepting a “valuable thing” that is “of such character as to manifest a substantial and improper influence.” This determination is a subjective test and depends on the nature of the “valuable thing” and whether it “is of such character as to manifest a substantial and improper influence.” *See State v. Ross*, 214 Ariz. 280, 284, 151 P.3d 1261, 1265 (App. 2007), as amended (March, 2007)(Overturning the conviction of the Maricopa County Assessor for using voter information for his personal business.)

However, in this matter, there was no offer of anything of value and Chancellor Lambert did not take anything of value. He did not follow up on this May 6, 2019 offer to have an engineer or technician “stop by” Chancellor Lambert’s home and “and take a look at it to see if we might help.”

For these reasons, I conclude that there was no violation of Arizona law or College policy arising from this email.

#### **B. Items of Value.**

I asked each witness if they knew of anything of value in excess of \$25.00 given by Trane to any College employee. The answer was “no,” with the exception of the purchase of a foursome of golf in 2019 at a golf tournament sponsored by the College Foundation, which is discussed below.

Please note that meals and sponsorships are generally excluded from State prohibitions against gifts. See e.g. A.R.S. §15-213(Q). Travel expense reimbursements are likewise excluded. A.R.S. §38-502(f). I used the \$25.00 benchmark, which has been used in applying A.R.S. §38-504(C) and 505.

#### **C. The Foundation Golf Tournament.**

Further consideration should be given to the Facilities Department soliciting vendors for participation in a 2019 golf tournament hosted by the College Foundation (the

“Foundation”), which is reflected in Mr. Knutson’s emails.<sup>18</sup> The Foundation is a separate non-profit that raises funds to support the College’s mission.  
<https://pimafoundation.org/about/finances/>.

While the solicitation of vendors to participate in the golf tournament is not illegal, or specifically contrary to College policy, the best practice would be for such solicitation to be made by the Foundation, rather than the Facilities Department. This way there can be no doubt that vendors participating in this event do not have any competitive advantage in future solicitations.

#### **XIV. Best Practices and Recommendations.**

I have also been asked to make recommendations for policy changes to ensure the College is engaging in best practices over and above the minimum required by the law and to avoid future concerns. In that regard, I recommend the following:

1. The College Procurement and Payment Services Department should amend Section 5.6 of the Manual by adding the following:

If a vendor contacts College personnel outside of the Contracts and Purchasing Department after a Bid/RFP process has started, the vendor should be referred to the Procurement and Payment Services Department.

If College personnel have a good faith belief that a vendor is attempting to exert undue influence on a procurement or is making inappropriate comments about the College or personnel, he or she should immediately report it to the Procurement Director.

2. The College Procurement and Payment Services Department should add the following to the Manual:

If any person serving on a committee to evaluate bids or proposals has a good faith belief he or she cannot fairly evaluate bids or proposals, he or she should contact the Procurement Director immediately.

3. In the Manual, there should be an added requirement that evaluation committee members for any procurement shall not solicit a potential vendor for that procurement for a contribution to a College related charitable event.

This requirement should be reiterated in the Employee Handbook section of "Ethical Standards."

4. Any person who is appointed to evaluate bids or proposals who refuses to assign scores should be instructed that it is his or her duty to participate in the evaluation in good faith.

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<sup>18</sup> Trane, among other vendors, purchased a foursome for this event held in 2019.

5. With the benefit of hindsight a group representing relevant perspectives and expertise (i.e., Procurement, Legal, Human Resources, etc.) should debrief what happened with David Davis and his expressions of concerns and determine what guidance should be developed to deal with future, similar situations.

Dated March 10, 2021.

A handwritten signature in blue ink, reading "Susan Segal", is written over a horizontal line.

Susan Plimpton Segal



# **EXHIBIT 18**



Saldamando, Jose &lt;jsaldamando@pima.edu&gt;

## Document

8 messages

Jaden, Joyce <jaking5@pima.edu>  
 To: "Saldamando, Jose" <jsaldamando@pima.edu>  
 Cc: Joyce Jaden <jaking5@pima.edu>

Tue, Jan 11, 2022 at 1:23 PM

Hi Jose,

Please see the attached document which shows a number of internal control problems on the Trane contract. I know that this was distributed to leadership, and is in the public domain, but I do not know if it was shared with you. As the College's Internal Auditor, I wanted to make sure that you had received it too.

Thanks,  
 Joyce

--

*Joyce Jaden, MBA*

Director, Fiscal and Management Operations  
 Pima County Community College District  
 6680 S Country Club Rd  
 Tucson, AZ 85709-1730  
 Phone: (520) 206-2780  
 Cell: (520) 730-8951  
 Email: [jaking5@pima.edu](mailto:jaking5@pima.edu)

**To see the Advanced Manufacturing Building in process click [here!](#)**

**/// Keep striving.**

CONFIDENTIALITY NOTICE: If you have received this email in error, please contact the sender immediately at the e-mail address shown. As this communication could contain confidential material(s), the information is only for the use of the individual(s) or entity to which it was originally intended. Therefore, if the email was incorrectly issued to you, please immediately delete it from your files. Thank you.

**A Failure of Governance at Pima College EMAIL2.pdf**  
 11798K

Saldamando, Jose <jsaldamando@pima.edu>  
 To: Joyce Jaden <jaking5@pima.edu>  
 Bcc: Jose Saldamando <jsaldamando@pima.edu>

Fri, Jan 14, 2022 at 12:53 PM

Hi Joyce,

Thank you for sharing this report with me; I truly appreciate it.

I do have the following questions regarding the email/report:

1. When did you get this report?
2. Why was it shared with the Internal Audit Department until now?
3. Can you please let me know what are the areas of concern from your point of view? I want to make sure I understand the situation, please provide as many details as possible.
4. Is there any other information (within the report) that raises concerns that you want to share with me?
5. Did anyone follow up on the items noted?

Please provide the answers to these questions at your earliest convenience.

Thank you.

[Quoted text hidden]

[Quoted text hidden]

Jaden, Joyce <jaking5@pima.edu>

Fri, Jan 14, 2022 at 5:06 PM

To: "Saldamando, Jose" <jsaldamando@pima.edu>

Hi Jose,

This report was sent to many, many people at the College including all Administrators. I had saved my email but I can no longer find it, so I don't know the date.

I sent this to you because you are currently conducting an audit and asking me to provide information. And, when I asked you if the Trane contract would be a part of the audit, you indicated that it would be a part of the interview process and this is related.

I also sent the document to you as a courtesy on the slim chance that you didn't receive it, or that leadership hadn't shared it with you already. Because, if they hadn't, I feel that you may have been at a disadvantage as the College's Internal Auditor.

Is this the first time you have seen this report?

Please advise,

Joyce

[Quoted text hidden]

---

**Saldamando, Jose** <jsaldamando@pima.edu>  
To: Joyce Jaden <jaking5@pima.edu>  
Bcc: Jose Saldamando <jsaldamando@pima.edu>

Fri, Jan 14, 2022 at 6:27 PM

Joyce,

It will be good to know when you received this report.

As indicated in my previous email(s), the objective of the Construction Projects Audit is to conduct a business process review of fiscal controls, accounting controls, project monitoring, and funding compliance. I don't recall seeing/receiving any email specifically related to the Trane contract; please refer me to the email and/or request list.

While I do appreciate that you shared this report with me, I need to know what are the areas of concern (from your point of view); I want to make sure I understand the situation. In addition, if you have other information that raises concerns, please share with me.

Do you know if anyone followed up on the results from this report?

Thank you.

[Quoted text hidden]

---

**Jaden, Joyce** <jaking5@pima.edu>  
To: "Saldamando, Jose" <jsaldamando@pima.edu>

Tue, Jan 18, 2022 at 5:42 PM

The document outlines C-FAIRR's concerns; the conclusion drawn is that it is plausible that Trane had an unfair advantage on a major project. If more clarity is needed, I would suggest contacting the authors.

My concerns on the Trane Contract were included in Facilities Review of Trane's Final Report, which can be found at the end of C-FAIRR's document.

A number of Board meetings and study sessions cover the College's and Board's follow up and could provide you with more background on the perspectives and results to date.

Thanks,

Joyce

[Quoted text hidden]



Saldamando, Jose &lt;jsaldamando@pima.edu&gt;

---

**C-FAIRR Report - Energy Management RFP and Contract Process**

7 messages

---

**Saldamando, Jose** <jsaldamando@pima.edu>  
To: Corey Arvizu <corey.arvizu@hm.cpa>  
Cc: Cheryl White <cheryl.white@hm.cpa>  
Bcc: Jose Saldamando <jsaldamando@pima.edu>

Tue, Mar 15, 2022 at 4:04 PM

Good afternoon Corey,

I will send you today the Energy Management RFP and Contract Process report prepared by C-FAIRR (Trane Contract). This is the report that Joyce referenced during our interview meeting (internal control issues). Please review and let me know your comments.

As stated during our last conversation, I have reached out to Joyce Jaden (via email and voice message) to obtain answers to all of my questions with no success (e.g. 1. When did you get this report?; 2. Why was it shared with the Internal Audit (IA) Department until now?; 3. Can you please let me know your concerns?; 4. Is there any other information that raises concerns that you want to share with IA?; etc.). Maybe it will be a good idea for us to reach out to Joyce to get specific answers, let me know your thoughts; we can schedule a quick meeting early next week to discuss further.

Please note that Internal Audit co-sourced the Procurement and Contract Audit with CLA; there were no findings noted. The objectives of the internal control risk assessment of procurement and contracting were to provide an independent assessment and assurance to the Internal Audit Committee and management that: 1) The internal control framework that supports procurement and contracting activities is appropriate, complete and effective. 2) Procurement and contracting activities comply with applicable policies, procedures, laws and regulations. The report was sent to you via HM secure portal on 2/21/2022.

Thank you!

--  
**Jose A. Saldamando, CFE**  
*Internal Audit*



District Office  
4905 E. Broadway Blvd. | Tucson, AZ 85709  
(520) 206-4589 | [jsaldamando@pima.edu](mailto:jsaldamando@pima.edu)

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**Saldamando, Jose** <jsaldamando@pima.edu>  
To: Corey Arvizu <corey.arvizu@hm.cpa>

Fri, Apr 1, 2022 at 11:08 AM

Good morning Corey,  
Hope all is well! When you have a moment, please let me know your comments related to the C-FAIRR report shared with you on 3/15/2022. I am always available if you want to schedule a quick call to discuss further.

Thank you.

[Quoted text hidden]

---

**Corey Arvizu** <corey.arvizu@hm.cpa>  
To: "Saldamando, Jose" <jsaldamando@pima.edu>

Mon, Apr 4, 2022 at 7:37 AM



Good morning Jose,

My apologies, this email just got lost in the shuffle.

I will review today or tomorrow and get back with you on comments. I will also be sending a draft of the IT report today or tomorrow at the latest as well.

Have a good week.

Corey

Corey Arvizu, CPA

Office: (520) 903-6865

Mobile: (520) 591-2313



*Accuracy counts, so do people.*

[Quoted text hidden]

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DISCLAIMER: Any accounting, business or tax advice contained in this communication, including attachments and enclosures, is not intended as a thorough, in-depth analysis of specific issues, nor a substitute for a formal opinion, nor is it sufficient to avoid tax-related penalties. If desired, HeinfeldMeech would be pleased to perform the requisite research and provide you with a detailed written analysis. Such an engagement may be the subject of a separate engagement letter that would define the scope and limits of the desired consultation services.

---

**Saldamando, Jose** <jsaldamando@pima.edu>  
To: Corey Arvizu <corey.arvizu@hm.cpa>

Mon, Apr 4, 2022 at 7:38 AM

Hi Corey,  
Thanks for the update, I truly appreciate it.  
Have a great week too.

[Quoted text hidden]

---

**Corey Arvizu** <corey.arvizu@hm.cpa>

Wed, Apr 6, 2022 at 8:26 AM

To: "Saldamando, Jose" <jsaldamando@pima.edu>

Good morning Jose,

I am available today from 1-2 and 3-5 to discuss, or all day tomorrow.

Thanks,

Corey

Corey Arvizu, CPA

Office: (520) 903-6865

Mobile: (520) 591-2313



*Accuracy counts, so do people.*

[Quoted text hidden]

[Quoted text hidden]

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**Saldamando, Jose** <jsaldamando@pima.edu>  
To: Corey Arvizu <corey.arvizu@hm.cpa>

Wed, Apr 6, 2022 at 8:32 AM

Hi Corey,  
Let's schedule our meeting for today from 1:00 to 1:30 today.  
Can you please send me a meeting invitation?  
Thank you!

[Quoted text hidden]

---

**Saldamando, Jose** <jsaldamando@pima.edu>  
To: Corey Arvizu <corey.arvizu@hm.cpa>  
Bcc: Jose Saldamando <jsaldamando@pima.edu>

Thu, Apr 7, 2022 at 11:41 AM

Good morning Corey,

It was nice meeting with you yesterday. Based on our conversation, I also agree that currently there is no need to conduct a review on the information reflected in the C-FAIRR report (e.g. no factual documentation; proposal include standard language, no disadvantage/risks for PCC; two independent reviews completed during 2021 with no exceptions noted (Ms. Susan Segal and IA/CLA Procurement and Contract Audit; etc.). I also want to thank you for your recommendation/best practices comments related to the excessive communication between management and the vendor as well as the nature of the emails. These are great suggestions, I'll share with management.

4/7/22, 11:49 AM

Pima Community College Mail - C-FAIRR Report - Energy Management RFP and Contract Process

Once again, thank you so much for taking time to provide feedback on this matter.

Have a great day.

[Quoted text hidden]

# **EXHIBIT 19**





**CliftonLarsonAllen**

**PIMA COMMUNITY COLLEGE**

**INTERNAL CONTROL REVIEW REPORT  
PROCUREMENT & CONTRACTS  
JUNE 2021**

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## Executive Summary

CliftonLarsonAllen LLP (CLA) performed an internal control review of the procurement and contracting functions at Pima Community College (the College). The internal control risk assessment was driven by the commitment the Organization has to ensuring their internal processes and controls are designed appropriately and operating as intended.

Internal control review for the purchasing and contracting processes is necessary to ensure that the Organization's policies and procedures address all material aspects of purchasing and contracting as well as applicable laws and regulations. This review provides assurance that adequate documentation is properly maintained, that all established policies and procedures are adhered to, and control structures are in place and effective.

The recommendations resulting from the internal control review are an opportunity to identify additional internal controls that should be implemented and documentation that needs to be revised or developed.

## Objectives

The objectives of the internal control risk assessment of procurement and contracting are to provide an independent assessment and assurance to the Internal Audit Committee and management that:

- 1) The internal control framework that supports procurement and contracting activities is appropriate, complete and effective.
- 2) Procurement and contracting activities comply with applicable policies, procedures, laws and regulations

## Scope

The scope of the internal control review included a review and evaluation of key controls and procedures over the College's procurement and contracting functions. The procedures were performed using a risk-based approach. The scope was specifically geared to identify internal controls implemented by management to ensure legal compliance, segregation of duties and integrity of transactions.

Additionally, the review included an evaluation of key controls over vendor maintenance. Vendor maintenance is an area of higher inherent risk particularly during the disruption produced by the recent health care pandemic.

## Sampling Methodology

Our sample of twelve contracts was haphazardly selected from the population of 47 contracts from July 1, 2019 to June 30, 2020. The following reports were used in sample selection:

- Purchase Order Register
- Signed Contracts Listing

The American Institute of Certified Public Accountants (AICPA) sampling guidance was followed in selecting this sample. The AICPA requires a sample size ranging from 5-9 for population sizes of 52 in

order to conclude on the effectiveness of internal controls and compliance. The 12 contracts selected exceeds that requirement.

## Selections

The following are the contracts tested.

<b>Vendor Name</b>	<b>Amount</b>
Advanced Technologies Consultants	\$515,020.00
Barker Contracting, Inc	\$13,094,769.00
Blackboard Inc.	\$581,597.00
Chasse Building Team Inc	\$12,308,024.81
Dell Marketing LP	\$1,141,350.00
Gordley Design Group Inc	\$894,080.42
Insight Public Sector Inc	\$691,832.53
Kittle Design And Construction LLC	\$791,789.00
Lloyd Construction Company, Inc.	\$999,855.66
Olympus Building Services, Inc.	\$1,880,000.00
Southwest Hazard Control Inc	\$512,970.00
SSVT Motors Inc	\$253,784.62

## Approach

We compared College policies and procedures to key leading industry practices to identify control breakdowns. Qualitative and quantitative support was considered for the observations to develop value-add recommendations. The recommendations are meant to mitigate the risk associated with observations identified.

## Conclusion

Overall, we noted that individuals were very knowledgeable of the processes, policies and procedures in which they are responsible and were able to provide the information needed to complete our internal control review procedures in a timely and efficient manner. The documentation received for testing was well organized and easily obtained.

## Summary of Procedures and Recommendations

### 1) Administrative Policies

#### Procedures:

We obtained copy of laws, regulations and administrative policies and compared to process narratives, quick guides and manuals related to purchasing and contracting to verify the legal requirements were included and compared the District's internal controls and policies to industry standard control activities. Following is a listing of the manuals and policies reviewed:

- Procurement, Purchasing, and Acquisition Procedures Manual (July 1, 2018)
- Signature Authority Administrative Procedure AP 1.05.02
- Purchasing Policy Designation Administrative Procedure AP 4.01.05
- Contracts Administrative Procedure AP 4.01.03

- Submitting Requests for Contract Purchases Memo
- Centralized Procurement Services – Procedure Memo
- Purchasing Process Consideration and Expectations Memo

Findings:

No exceptions were noted

**2) Compliance with Administrative Policies and Legal Requirements**

Procedures:

We reviewed a sample of transactions for twelve contracts over \$250,000 for policy and internal control compliance. We verified the selected contracts received the appropriate approvals (including from Governance), followed the required competitive bid process, and included the terms and conditions required by the Arizona State Law.

Findings:

No exceptions were noted

**3) User Access Rights and Segregation of Duties**

Procedures:

We reviewed system access privileges to the procurement IT system to initiate, approve and release purchase order requests. We evaluated the adequacy of segregation of duties in this environment to ensure no user can perform all control points of the purchase order process.

Findings:

No exceptions were noted

**4) Vendor Maintenance**

Procedures:

We obtained the master vendor list and compared to employee listings to determine if there are inappropriate payments.

Findings:

No exceptions were noted.

Recommendations:

We noticed that a rather large vendor list exists and some of the duplicate and inactive vendors. We recommend that the vendor lists be reviewed periodically to remove inactive and duplicate vendors. This will assist with keeping the listing current and reduce the risk of fraud from potentially paying a vendor that has gone out of business.

Management's Response:

*The Governing Board at its March 10, 2021 meeting approved a contract amendment with the College's ERP service provider (Banner Ellucian) to add e-Invoice and e-Procurement solutions that leverage the use of financial and compliance best practices to enhance the College's Procurement and Accounts Payable services. Technical and configuration work is in progress for e-Invoice. System design, testing,*

*implementation and training to follow with a "go-live" target date in November/December 2021. Project kick-off for e-Procurement took place in mid-June 2021. Project timeline for e-Procurement to be determined pending staffing resources evaluation to implement in overlap with e-Invoice project or following e-Invoice project. Noted as an item for review with the Ellucian, e-Invoice, and e-Procurement system consultants will be vendor file maintenance with specific focus as to how inactive and duplicate vendors are addressed/removed so as to not corrupt Banner ERP parent-child record integrity associations or history.*

**Target Date of Implementation:**

*November/December 2021 if implementation of e-Procurement project overlaps with implementation of e-Invoice project. June/July 2022 if e-Procurement project implementation follows e-Invoice project.*

# **EXHIBIT 20**



## COLLEGE EMPLOYEE SATISFACTION SURVEY INTERPRETIVE GUIDE

The College Employee Satisfaction Survey (CESS) is designed to assess the campus environment for college and university employees (faculty, staff, and administration). The CESS is similar in structure and design to the Noel-Levitz student satisfaction and priorities surveys (such as the SSI and the ASPS) in that for each of the core satisfaction items respondents are asked to rate importance as well as satisfaction.

### The survey instrument consists of 4 sections:

- Section 1: Campus culture and policies (30 standard items)
- Section 2: Institutional goals (9 standard items)
- Section 3: Involvement in planning and decision-making (8 standard items)
- Section 4: Work environment (21 standard items)

### Section 1: Campus culture and policies and Section 4 Work environment

Respondents are presented with statements and asked to rate their importance to them as employees and then to rate their satisfaction. A five-point Likert rating scale is used for both importance and satisfaction.

When calculating means for the importance and satisfaction ratings the following numeric values are assigned:

#### Importance and Satisfaction Rating Scale

Importance rating	Satisfaction rating	Numerical value
Very important	Very satisfied	5
Important	Satisfied	4
Somewhat important	Somewhat satisfied	3
Not very important	Not very satisfied	2
Not important at all	Not satisfied at all	1



## Section 2: Institutional goals

Respondents are presented with statements describing a set of institutional goals and asked to rate how important it is to them that the institution pursues each of the goals. A five-point Likert rating scale is used for importance.

When calculating means for the importance ratings the following numeric values are assigned:

### Importance Rating Scale

Importance rating	Numerical value
Very important	5
Important	4
Somewhat important	3
Not very important	2
Not important at all	1

Respondents are then asked to choose three goals from the list that they believe should be the institution's top priorities and then indicate which of the three goals is their first priority goal, their second priority goal, and their third priority goal. We report a count and percentage distribution of the number of respondents that select each goal as first priority, second priority and third priority.

## Section 3: Involvement in planning and decision-making

Respondents are presented with a list of types of individuals (faculty, staff, deans, trustees, alumni, etc.) and asked to rate how much involvement each type of individual has in the planning and decision-making process at the institution. A five-point Likert rating scale is used for involvement.

When calculating means for the importance ratings the following numeric values are assigned:

### Involvement Rating Scale

Involvement rating	Numerical value
Too much involvement	5
More than enough involvement	4
Just the right involvement	3
Not quite enough involvement	2
Not enough involvement	1

## Global satisfaction

In addition to these sections the survey includes a global satisfaction item (“Rate your overall satisfaction with your employment here so far”) using the same 5-point Likert satisfaction scale noted above and three open-ended questions:

1. Please provide any additional feedback about the campus culture and policies at (INSTITUTION)
2. Please provide any additional feedback about this institution’s goals
3. Please provide any additional feedback about the work environment at (INSTITUTION)

## Calculating means and gaps

Means for importance and satisfaction for individual items are calculated by summing the respondents’ ratings and dividing by the number of respondents. Performance gap means are calculated by taking the difference between the (mean) importance rating and the (mean) satisfaction rating.

## Significance Definitions and Levels

The significance level for Importance is a result of comparing your institution’s average importance score to the comparison group’s average importance score. Likewise for the Satisfaction score. The result is obtained by running an ANOVA (analysis of variance) on the two scores. The result you see is showing you the level of significance, or the p-value.

NS = no significant difference exists between the groups.

One asterisk = a p-value of .05, meaning that the two scores are significantly different, and such a difference would only be due to chance 5% of the time.

Two asterisks = a p-value of .01, meaning that the two scores are significantly different, and such a difference would only be due to chance 1% of the time.

Finally, three asterisks = a p-value of .001, meaning that the two scores are significantly different, and such a difference would only be due to chance 0.1% of the time.

## Validity and Reliability

The reliability of the Noel-Levitz College Employee Satisfaction Survey (CESS) was measured by comparing year-to-year average overall satisfaction for institutions with multiple years of survey results. The school demonstrated consistent results. The correlation of overall satisfaction between successive years of the survey was .649.

Due to the absence of another instrument to compare to the CESS, validity was measured by the correlation between individual survey items and overall satisfaction. All correlations were significant at the .01 level. This is an indication that the survey items are both associated with and contribute to overall satisfaction.

## Guide for Using Open-end Questions

☑ Use the quantitative results (numeric) as the only source for key findings and strategies. Once those key findings are known, in particular strengths and challenges/opportunities for change (high importance/low satisfaction OR highest gaps), read through the open-ends and pull only those that might have some relation to the quantitative as potential suggestions, but do not treat any open-end as being anything but one person's opinion.

- The open-ends are qualitative (similar to a focus group) and not everyone provides answers; they are not statistically sound. Do not share them publicly. Most campuses only allow review by a trusted executive team and/or Human Resources.
- The open-ends allow employees to vent pent up frustration so do not be surprised if some are controversial.
- The open-ends can provide helpful suggestions of quick “just do it” fixes and other longer-term ideas that might require more resources and planning.
- The open-ends can provide insight into problem areas that need further investigation (additional interviews or a survey item for next time to test it more broadly.)
- It is important to highlight any suggestions that are implemented that came from employee input, to show that the survey results were used and helped.

COLLEGE EMPLOYEE SATISFACTION SURVEY RESULTS Pima Community College - Spring 2022 Respondents

Section 1: Campus Culture and Policies

RATE IMPORTANCE (1 = "Not important at all" / 5 = "Very important") AND SATISFACTION (1 = "Not satisfied at all" / 5 = "Very satisfied")	IMPORTANCE			SATISFACTION			GAP
	Mean	Standard Deviation	Valid Respondents	Mean	Standard Deviation	Valid Respondents	
This institution promotes excellent employee-student relationships	4.64	.59	679	3.70	.95	675	0.94
This institution treats students as its top priority	4.74	.54	677	3.66	1.07	677	1.08
This institution does a good job of meeting the needs of students	4.73	.54	678	3.59	1.00	676	1.14
The mission, purpose, and values of this institution are well understood by most employees	4.29	.76	678	3.57	1.01	675	0.72
Most employees are generally supportive of the mission, purpose, and values of this institution	4.35	.71	674	3.64	.97	669	0.71
The goals and objectives of this institution are consistent with its mission and values	4.46	.68	670	3.54	1.04	668	0.92
This institution involves its employees in planning for the future	4.43	.74	675	3.17	1.25	674	1.26
This institution plans carefully	4.50	.68	672	3.15	1.21	673	1.35
The leadership of this institution has a clear sense of purpose	4.56	.70	672	3.26	1.24	666	1.30
This institution does a good job of meeting the needs of its faculty	4.45	.77	668	3.20	1.22	664	1.25
This institution does a good job of meeting the needs of staff	4.52	.64	639	3.15	1.12	631	1.37
This institution does a good job of meeting the needs of administrators	4.17	.83	627	3.78	.94	605	0.39
This institution makes sufficient budgetary resources available to achieve important objectives	4.52	.63	632	3.22	1.15	625	1.30
This institution makes sufficient staff resources available to achieve important objectives	4.46	.68	629	3.17	1.14	619	1.29
There are effective lines of communication between departments	4.50	.71	624	2.74	1.19	623	1.76
Administrators share information regularly with faculty and staff	4.49	.69	631	3.18	1.24	626	1.31
There is good communication between the faculty and the administration at this institution	4.47	.66	621	3.16	1.10	611	1.31
There is good communication between staff and the administration at this institution	4.44	.67	622	3.11	1.15	617	1.33
Faculty take pride in their work	4.63	.55	628	3.79	.95	619	0.84
Staff take pride in their work	4.60	.59	626	3.75	.98	621	0.85
Administrators take pride in their work	4.52	.67	620	3.66	1.00	612	0.86
There is a spirit of teamwork and cooperation at this institution	4.53	.63	614	3.16	1.19	606	1.37
The reputation of this institution continues to improve	4.53	.64	612	3.35	1.17	605	1.18
This institution is well-respected in the community	4.60	.60	608	3.55	1.04	605	1.05
Efforts to improve quality are paying off at this institution	4.52	.63	608	3.31	1.16	602	1.21
Employee suggestions are used to improve our institution	4.41	.70	600	2.90	1.21	594	1.51
This institution consistently follows clear processes for selecting new employees	4.47	.68	609	3.22	1.23	598	1.25
This institution consistently follows clear processes for orienting and training new employees	4.47	.67	606	3.23	1.14	599	1.24
This institution consistently follows clear processes for recognizing employee achievements	4.25	.81	608	2.98	1.22	599	1.27
This institution has written procedures that clearly define who is responsible for each operation and service	4.40	.71	601	3.04	1.13	597	1.36
My immediate supervisor provides me with information about what is going on at the college	4.49	.67	611	3.78	1.25	612	0.71
This institution does an excellent job of keeping employees informed about matters affecting us	4.53	.62	604	3.27	1.20	605	1.26
This institution has high performance standards	4.46	.63	600	3.28	1.11	596	1.18
Systems and processes are in place to address under-performing employees	4.39	.71	593	2.87	1.23	589	1.52
Efforts to improve the effectiveness of the Governing Board's leadership are paying off at this institution	4.32	.78	583	3.07	1.12	574	1.25
Efforts to improve the integrity of Human Resources operations are paying off at this institution	4.40	.70	585	3.12	1.15	574	1.28
Efforts to improve the complaints and grievance procedures are paying off at this institution	4.36	.69	575	3.15	1.13	566	1.21
Efforts to improve the integrity of financial practices are paying off at this institution	4.45	.65	573	3.35	1.07	570	1.10
Efforts to improve the effectiveness of administrative leadership are paying off at this institution	4.42	.67	573	3.11	1.17	567	1.31
Pima Community College fosters an environment that is inclusive of diverse identities	4.51	.76	586	3.76	1.11	583	0.75
The institution does a good job involving employees in college planning	4.36	.69	585	3.06	1.16	583	1.30
Efforts to improve the college climate are paying off at the institution	4.41	.68	584	3.08	1.21	581	1.33

COLLEGE EMPLOYEE SATISFACTION SURVEY RESULTS Pima Community College - Spring 2022 Respondents

**Section 2: Institutional Goals**

<b>RATE: IMPORTANCE (1 = "Not important at all / 5 = "Very important")</b>	<b>Mean</b>	<b>Standard Deviation</b>	<b>Valid Respondents</b>
Increase the enrollment of new students	4.66	0.65	597
Retain more of its current students to graduation	4.77	0.53	597
Improve the academic ability of entering student classes	4.34	0.84	593
Recruit students from new geographic markets	3.80	1.09	595
Increase the diversity of racial and ethnic groups represented among the student body	4.00	1.04	595
Develop new academic programs	3.87	0.99	595
Improve the quality of existing academic programs	4.54	0.68	595
Improve the appearance of campus buildings and grounds	3.78	0.97	596
Improve employee morale	4.61	0.64	597
Some other goal	3.43	1.32	371

<b>(Choose three goals that you believe should be this institution's top priorities) First priority goal:</b>	<b>Count</b>	<b>Percent</b>
Increase the enrollment of new students	193	32.3%
Retain more of its current students to graduation	161	26.9%
Improve the academic ability of entering student classes	29	4.8%
Recruit students from new geographic markets	10	1.7%
Increase the diversity of racial and ethnic groups represented among the student body	9	1.5%
Develop new academic programs	14	2.3%
Improve the quality of existing academic programs	83	13.9%
Improve the appearance of campus buildings and grounds	4	0.7%
Improve employee morale	87	14.5%
Some other goal	8	1.3%
All responses	598	100.0%

COLLEGE EMPLOYEE SATISFACTION SURVEY RESULTS Pima Community College - Spring 2022 Respondents

<b>(Choose three goals that you believe should be this institution's top priorities) Second priority goal:</b>	<b>Count</b>	<b>Percent</b>
Increase the enrollment of new students	148	24.8%
Retain more of its current students to graduation	165	27.6%
Improve the academic ability of entering student classes	31	5.2%
Recruit students from new geographic markets	13	2.2%
Increase the diversity of racial and ethnic groups represented among the student body	14	2.3%
Develop new academic programs	31	5.2%
Improve the quality of existing academic programs	118	19.8%
Improve the appearance of campus buildings and grounds	1	0.2%
Improve employee morale	70	11.7%
Some other goal	6	1.0%
All responses	597	100.0%

<b>(Choose three goals that you believe should be this institution's top priorities) Third priority goal:</b>	<b>Count</b>	<b>Percent</b>
Increase the enrollment of new students	92	15.4%
Retain more of its current students to graduation	94	15.7%
Improve the academic ability of entering student classes	57	9.5%
Recruit students from new geographic markets	18	3.0%
Increase the diversity of racial and ethnic groups represented among the student body	35	5.9%
Develop new academic programs	57	9.5%
Improve the quality of existing academic programs	127	21.3%
Improve the appearance of campus buildings and grounds	21	3.5%
Improve employee morale	87	14.6%
Some other goal	9	1.5%
All responses	597	100.0%

COLLEGE EMPLOYEE SATISFACTION SURVEY RESULTS Pima Community College - Spring 2022 Respondents

TOTAL "VOTES" FOR EACH GOAL	First Priority	Second Priority	Third Priority	TOTAL	TOTAL PERCENT
Increase the enrollment of new students	193	148	92	433	24.2%
Retain more of its current students to graduation	161	165	94	420	23.4%
Improve the academic ability of entering student classes	29	31	57	117	6.5%
Recruit students from new geographic markets	10	13	18	41	2.3%
Increase the diversity of racial and ethnic groups represented among the student body	9	14	35	58	3.2%
Develop new academic programs	14	31	57	102	5.7%
Improve the quality of existing academic programs	83	118	127	328	18.3%
Improve the appearance of campus buildings and grounds	4	1	21	26	1.5%
Improve employee morale	87	70	87	244	13.6%
Some other goal	8	6	9	23	1.3%
All responses	598	597	597	1,792	100.0%

**Section 3: Involvement in planning and decision-making**

RATE: INVOLVEMENT (1 = "Not enough involvement" / 3 = "Just the right involvement" / 5 = "Too much involvement")	Mean	Standard Deviation	Valid Respondents
How involved are: Faculty	2.69	1.12	562
How involved are: Staff	2.27	0.90	554
How involved are: Deans or directors of administrative units	3.43	0.85	553
How involved are: Senior administrators (VP, Provost level or above)	3.84	0.88	552
How involved are: Students	2.21	0.84	565
How involved are: Alumni	2.43	0.95	545
How involved are: Governing Board	3.47	0.92	547

COLLEGE EMPLOYEE SATISFACTION SURVEY RESULTS Pima Community College - Spring 2022 Respondents

Section 4: Work environment

RATE IMPORTANCE (1 = "Not important at all" / 5 = "Very important") AND SATISFACTION (1 = "Not satisfied at all" / 5 = "Very satisfied")	IMPORTANCE			SATISFACTION			GAP
	Mean	Standard Deviation	Valid Respondents	Mean	Standard Deviation	Valid Respondents	
It is easy for me to get information at this institution	4.54	0.57	578	3.17	1.13	578	1.37
I learn about important campus events in a timely manner	4.22	0.73	581	3.49	1.07	581	0.73
I am empowered to resolve problems quickly	4.47	0.62	580	3.31	1.21	579	1.16
I am comfortable answering student questions about institutional policies and procedures	4.26	0.76	576	3.43	0.99	580	0.83
I have the information I need to do my job well	4.65	0.53	579	3.66	1.05	582	0.99
My job responsibilities are communicated clearly to me	4.62	0.54	580	3.80	1.10	581	0.82
My supervisor pays attention to what I have to say	4.63	0.54	579	4.03	1.20	581	0.60
My supervisor helps me improve my job performance	4.49	0.66	578	3.82	1.25	580	0.67
My department or work unit has written, up-to-date objectives	4.28	0.77	574	3.53	1.18	575	0.75
My department meets as a team to plan and coordinate work	4.36	0.77	575	3.72	1.21	578	0.64
My department has the budget needed to do its job well	4.52	0.59	571	3.24	1.15	566	1.28
My department has the staff needed to do its job well	4.61	0.55	574	2.94	1.21	570	1.67
I am paid fairly for the work I do	4.66	0.58	580	2.74	1.28	579	1.92
The employee benefits available to me are valuable	4.59	0.65	569	3.75	1.18	572	0.84
I have adequate opportunities for advancement	4.28	0.85	575	2.94	1.27	574	1.34
I have adequate opportunities for training to improve my skills	4.40	0.70	578	3.67	1.13	578	0.73
I have adequate opportunities for professional development	4.38	0.71	575	3.70	1.10	576	0.68
The type of work I do on most days is personally rewarding	4.59	0.61	576	4.01	1.00	582	0.58
The work I do is appreciated by my supervisor	4.44	0.65	574	3.96	1.15	575	0.48
The work I do is valuable to the institution	4.55	0.61	572	3.81	1.13	572	0.74
I am proud to work at this institution	4.53	0.64	572	3.97	1.10	573	0.56
Employees are evaluated fairly and consistently	4.45	0.65	568	3.15	1.22	565	1.30
Appropriate stakeholders are involved in College decisions	4.30	0.77	552	3.16	1.10	546	1.14
I am able to complete the work expected of me during my regular or contracted work hours	4.45	0.65	573	3.46	1.26	573	0.99
Information needed to do my job effectively is communicated in a clear and timely manner	4.52	0.60	571	3.51	1.14	571	1.01
I feel I can bring concerns to my supervisors or administration without retaliation	4.64	0.56	570	3.73	1.32	571	0.91
The institution supports a premier work environment for employees	4.39	0.67	573	3.08	1.23	572	1.31
The institution chooses and funds the most important priorities	4.43	0.63	559	3.01	1.11	553	1.42
This institution's policies and practices give me the flexibility to manage my work and personal life	4.51	0.61	566	3.60	1.13	567	0.91
This institution makes data-driven decisions	4.32	0.74	552	3.30	1.07	548	1.02
The Diversity, Equity and Inclusion Strategic Planning Group is affecting meaningful change	4.17	0.95	557	3.53	1.06	550	0.64
Access to technology at this institution meets my expectations	4.47	0.60	563	3.84	0.99	566	0.63
I feel I have a good work-life balance	4.62	0.59	568	3.57	1.22	572	1.05



COLLEGE EMPLOYEE SATISFACTION SURVEY RESULTS Pima Community College - Spring 2022 Respondents

**Overall satisfaction**

Rate your overall satisfaction with your employment here so far:	3.69	1.05	585
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**Section 5: Demographics**

<i>How long have you worked at this institution?</i>	Count	Percent
Less than 1 year	58	9.9%
1 to 5 years	149	25.3%
6 to 10 years	129	21.9%
11 to 20 years	169	28.7%
More than 20 years	83	14.1%
All responses	588	100.0%

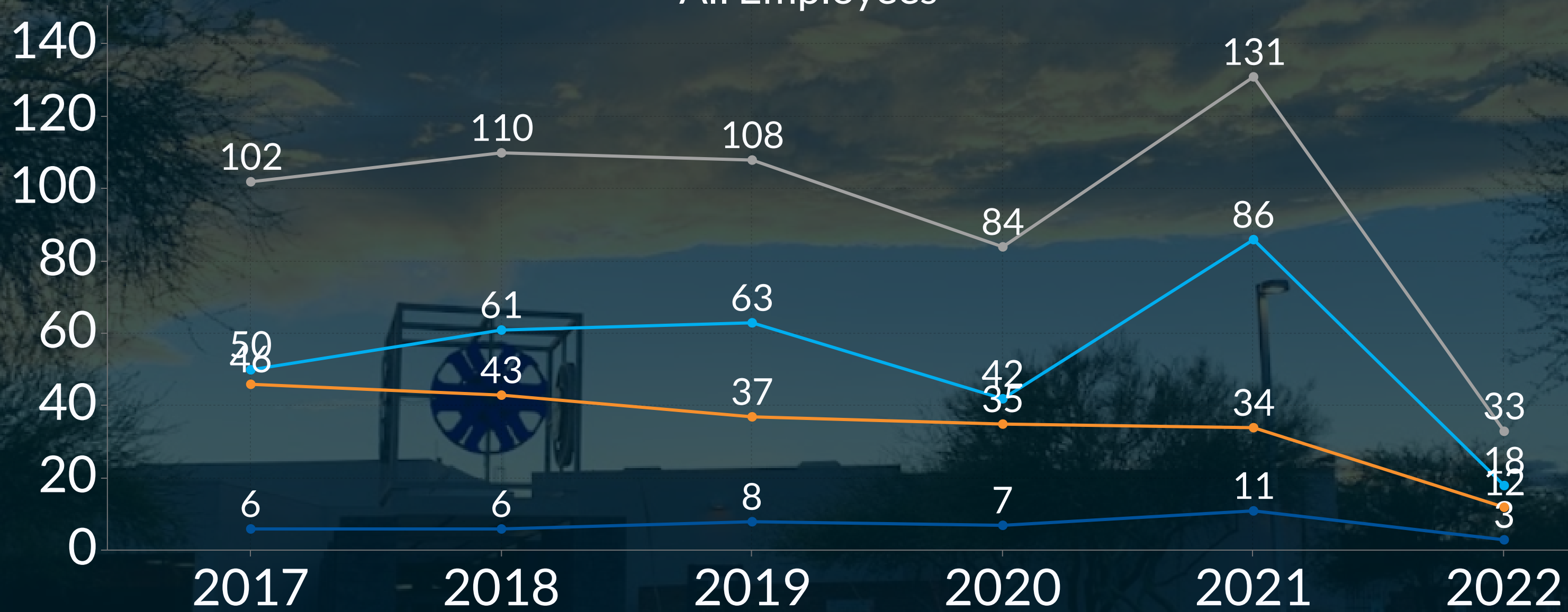
<i>Is your position:</i>	Count	Percent
Faculty	228	39.2%
Staff	332	57.0%
Administrator	22	3.8%
All responses	582	100.0%

<i>Is your position:</i>	Count	Percent
Full-time	432	74.2%
Part-time	150	25.8%
All responses	582	100.0%

# **EXHIBIT 21**

# Retention

All Employees

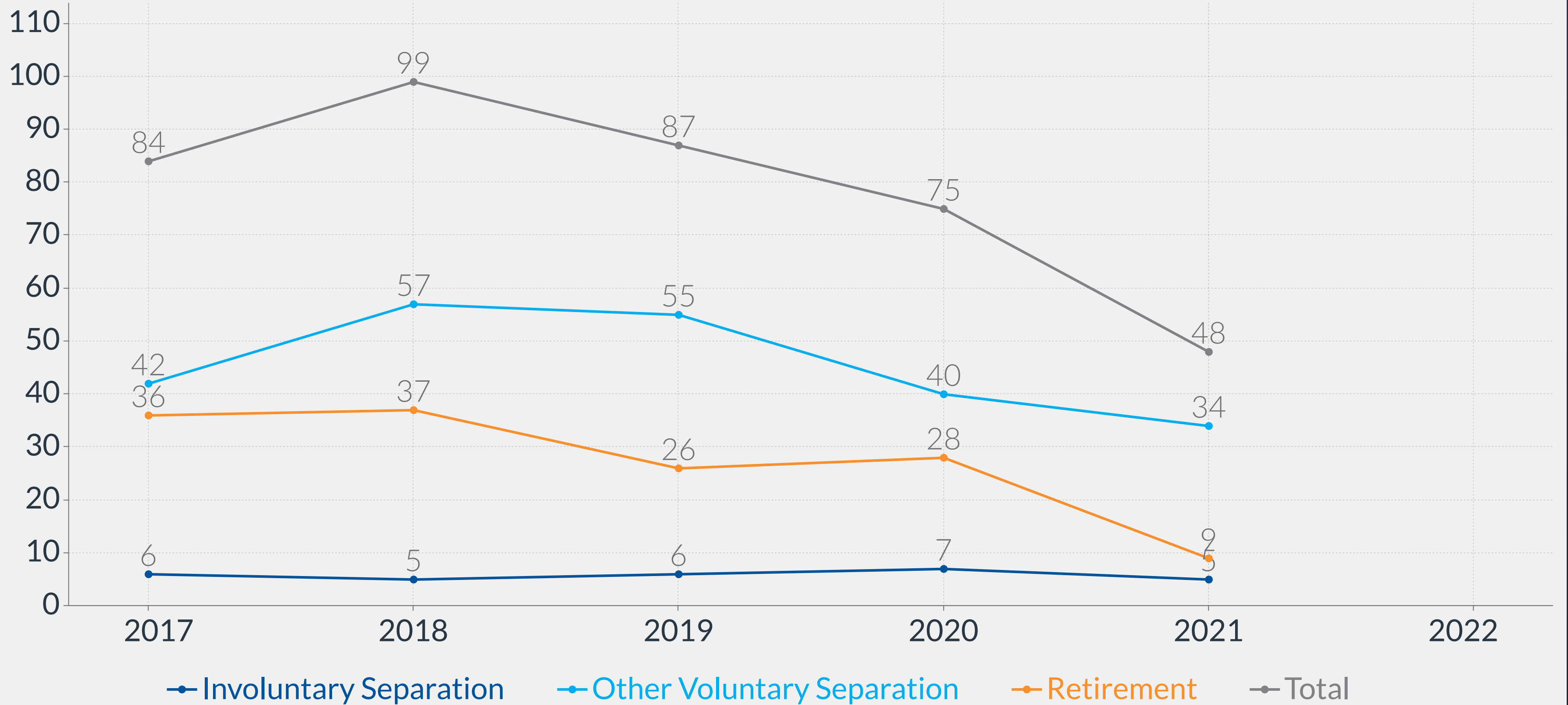


Year	Total Employees	New Employees	Involuntary Separation	Other Voluntary Separation	Retirement	Total	Retention Rate
2017	1368	73	6	50	46	102	92.5%
2018	1294	64	6	61	43	110	91.5%
2019	1286	105	8	63	37	108	91.6%
2020	1245	82	7	42	35	84	93.3%
2021	1296	98	11	86	34	131	89.9%
2022	1258	29	3	18	12	33	97.4%

\*2022 only reflects January - Present data.

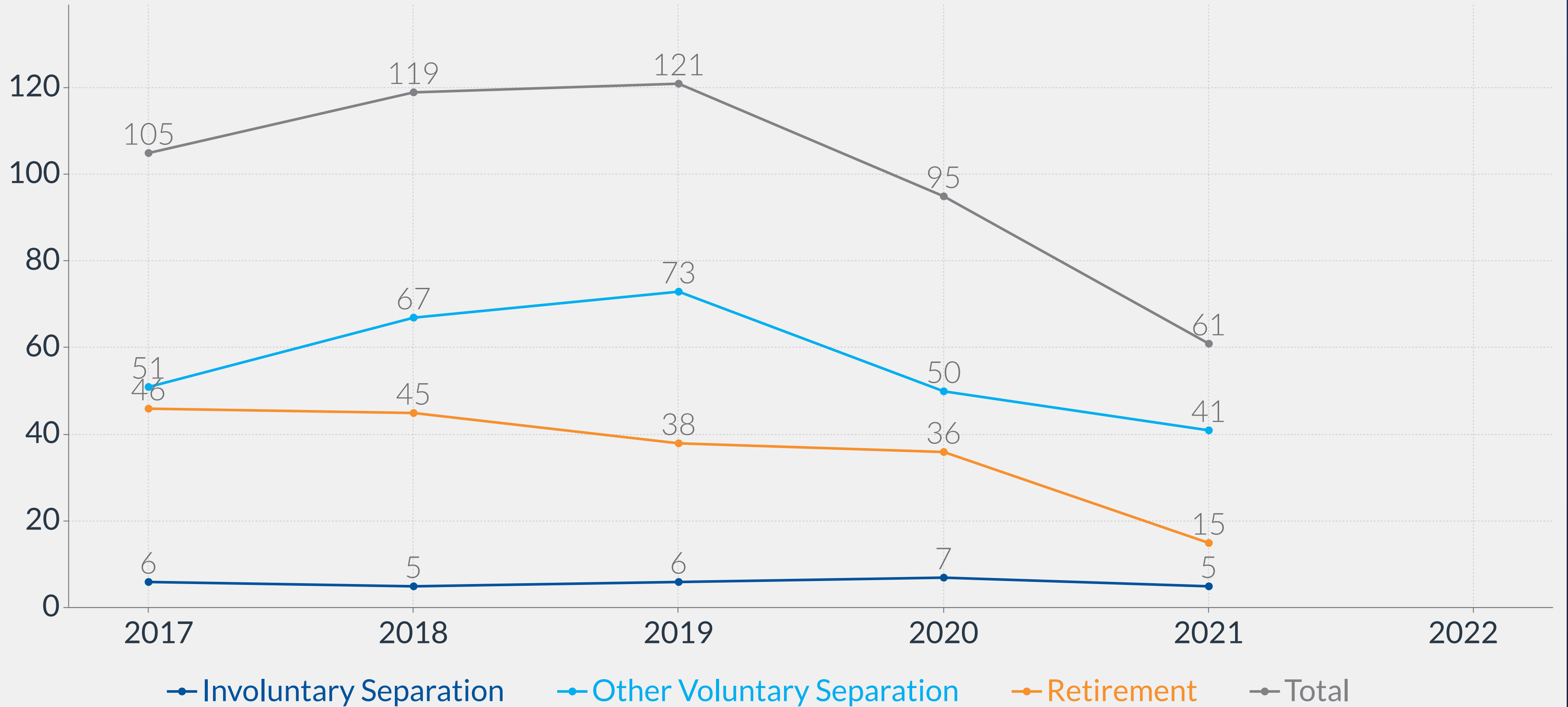
# Retention

## Administrators and Staff



# Retention

Faculty and Adjunct Faculty



# Data References and Sources

## **Retention Data**

Period from January 1st 2017 to March 4th 2022

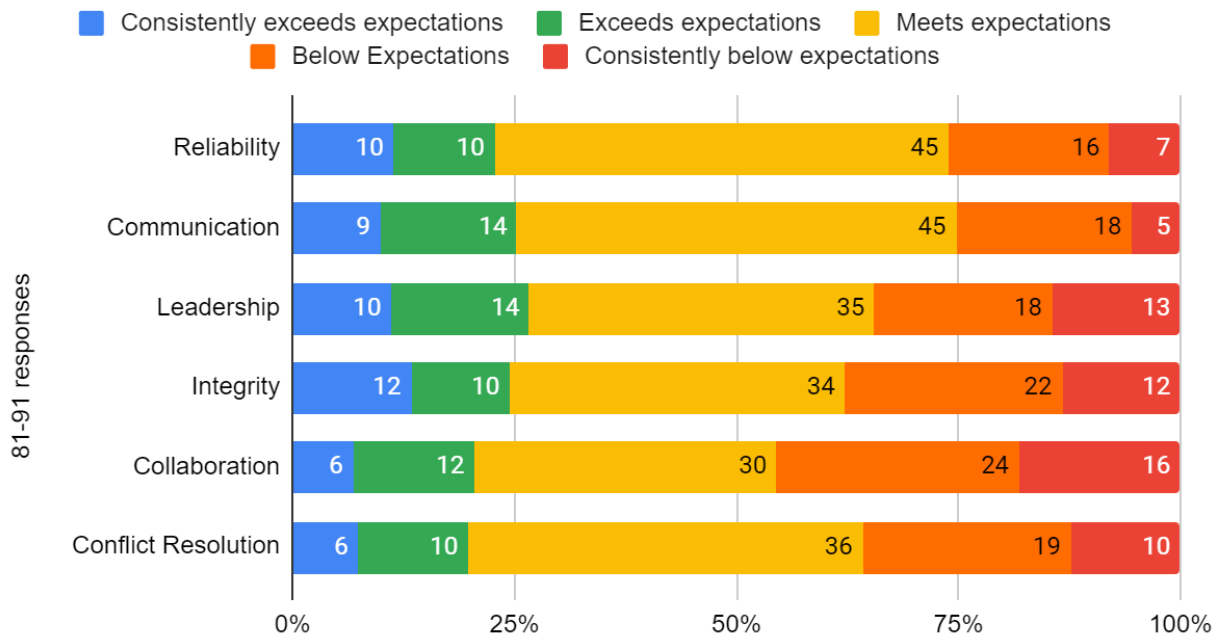
## **Learning Engagment Data**

Benchmark Data from ATD for 2021 will not be available until the end of year 2022.

The State of the Industry report (SOIR) is published annually by ATD's researchers. The information presented reflects the organizational data reported for the previous year. In this report, the 2021 SOIR presents organizational data submitted for calendar or fiscal year 2020.

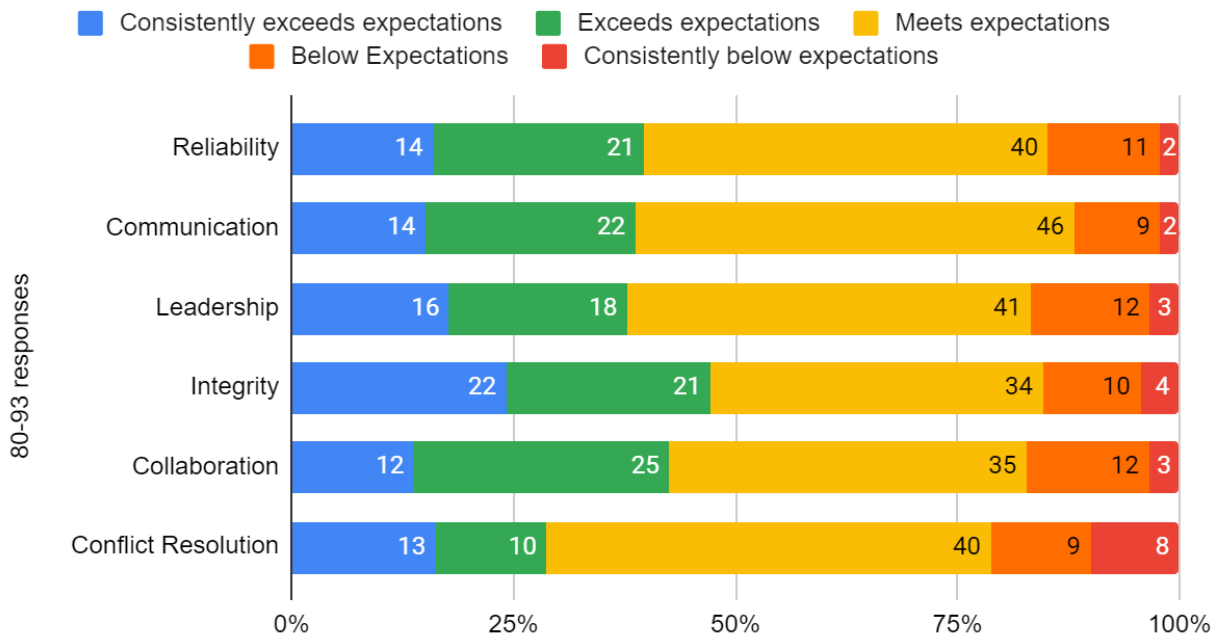
# **EXHIBIT 22**

## Lee Lambert





## Dr. Dolores Durán-Cerda



# **EXHIBIT 23**



Silvyn, Jeff &lt;jsilvyn@pima.edu&gt;

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**FW: Representation of Pima Community College**

1 me age

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**Tim Medcoff** <tmedcoff@farhangmedcoff.com>  
To: "Silvyn, Jeffrey" <jsilvyn@pima.edu>

Mon, Dec 20, 2021 at 10:36 AM



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**From:** Raj Murthy <rajkm23@gmail.com>  
**Sent:** Monday, December 20, 2021 10:34 AM  
**To:** Tim Medcoff <tmedcoff@farhangmedcoff.com>  
**Subject:** Re: Representation of Pima Community College

Good morning, Tim.

Thank you for your response.

All the best to you and your family as well. Make it a great holiday season.

Best wishes, Raj.

On Fri, Dec 17, 2021 at 6:12 PM Tim Medcoff <tmedcoff@farhangmedcoff.com> wrote:

Raj,

I reviewed your timeline and supporting documents, etc. in more detail. The written evidence shows there was no verbal or written agreement in September. David Bea only agreed in writing to see what he could do in September. Rather, the verbal agreement (which I cannot confirm) would have happened in mid October or later David and the

College then did some due diligence to determine a fair wage increase for you which it delivered to you in mid-April (i.e., a pay raise and retroactive pay). Thus, the additional information below, unfortunately, does not change my analysis or the position of the College. I'm sorry.

I know this is not the news you want to hear, but I will clarify that the College has or will talk to David Bea to stress the importance of clear written communications in the future to avoid confusion or misleading another employee. That has happened or will happen.

Finally, the relevant statute is A.R.S. § 12-821.01.

All the best to you and your family.

Tim

---

**From:** Raj Murthy <rajkm23@gmail.com>  
**Sent:** Tuesday, December 14, 2021 3:00 PM  
**To:** Tim Medcoff <tmedcoff@farhangmedcoff.com>  
**Subject:** Fwd: Representation of Pima Community College

Greetings, Tim:

First, thanks for the discussion and explanation. Clearly, I did not know or even think about 'a statute'. Lesson learned.

I'm also happy to know that (hopefully) someone will talk to David Bea about his actions and responsibilities.

Here is what I was talking about and the document is attached for your reference.

My first discussion and email to David Bea started on Sept 24th, 2019. The same day he agrees to \$185K and asks me to stay.

The actual check (and only after my repeated requests) comes to me on April 14th, 2020.

Sept 24th, 2019 to April 14th, 2020 is clearly more than 6 months.

What do you think?

Plmk, I appreciate your help. Raj.

----- Forwarded message -----

From **Raj Murthy** [rajkm23@gmail.com](mailto:rajkm23@gmail.com)  
Date: Sun, Sep 19, 2021 at 6:56 PM  
Subject: Re: Representation of Pima Community College  
To: Tim Medcoff <[tmedcoff@farhangmedcoff.com](mailto:tmedcoff@farhangmedcoff.com)>

Hi, Tim:

Here you go, attached is the entire history of my issue with David Bea. I have all the emails and so does he.

Plmk if you need anything else. Thanks for listening. I trust you will be fair.

Best wishes, Raj.

On Mon, Sep 13, 2021 at 8:42 AM Tim Medcoff <[tmedcoff@farhangmedcoff.com](mailto:tmedcoff@farhangmedcoff.com)> wrote:

Mr. Murthy,

If you need a secure link to upload the documents, etc., please let me know, and we will share one. I look forward to receiving the information ASAP. Thanks.

Tim

---

**From:** Raj Murthy <rajkm23@gmail.com>  
**Sent:** Sunday, September 12, 2021 11:35 AM  
**To:** Tim Medcoff <tmedcoff@farhangmedcoff.com>  
**Cc:** Jane Cebula <jcebula@farhangmedcoff.com>  
**Subject:** Re: Representation of Pima Community College

CAUTION: This email originated from outside of F&M.

Greetings, Mr. Medcoff:

Thanks for reaching out. I wanted to acknowledge that I have received your email. I will compile all the information and send it to you. I don't have an attorney, so, I'm happy to share the information with you directly and the data will bear out my claim. Best wishes. Raj.

On Fri, Sep 10, 2021 at 3:00 PM Tim Medcoff <tmedcoff@farhangmedcoff.com> wrote:

Mr. Murthy,

Pima Community College (PCC) has retained me and my firm to investigate your wage claim. Because Dr. Bea works closely with its in-house attorneys, PCC thought it would be better to hire an independent, impartial factfinder. I understand you claim that Dr. David Bea verbally promised you a raise two years ago, which was never given to you. You thus seek backpay (i.e., the difference between your actual compensation versus the purportedly promised raise).

Please note that I do not represent you with respect to your wage claim. Rather, I represent PCC. If you have hired an attorney to handle this claim for you, please direct this email to him or her. Otherwise, at your earliest convenience, please send me all documents including emails, text messages, recorded phone calls or anything else supporting your claim that Dr. Bea promised you additional compensation for your IT services to PCC. In addition, please identify any witnesses (besides Dr. Bea) who can substantiate your claim.

If you have any questions regarding this matter, please contact me. Thanks, in advance, for your cooperation and assistance.

Best regards,

Tim

**Timothy M. Medcoff | Managing Partner**

vCard | Profile

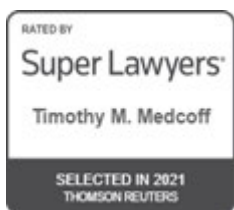
520.214.2000 | f: 520.214.2001

Tucson Office: [100 S. Church Ave., Suite 100 | Tucson, AZ 85701](#)

Phoenix Location: [4021 N. 75th St., Suite 101 | Scottsdale, AZ 85251](#)

[farhangmedcoff.com](http://farhangmedcoff.com)

**FARHANG & MEDCOFF**  
ATTORNEYS



**Timothy Medcoff**

- Immediate Past Board Chair

- [TucsonChamber.org](http://TucsonChamber.org)

Please consider helping our environment before printing this email.

PLEASE NOTE: This email message (including any attachments) contains information that may be confidential and/or privileged. If you are not the intended recipient, you may not read, copy, distribute, or use this information, and no privilege is waived by your inadvertent receipt. Improper or unauthorized use of this email may be unlawful. If you received this message in error, please notify the sender by replying to this e-mail and then permanently delete it from your system.

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Raj Murthy

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Raj Murthy

1/3/22, 4:52 PM

Pima Community College Mail - FW: Representation of Pima Community College

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Raj Murthy

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Raj Murthy



# **EXHIBIT 24**

Raj Murthy <rajkm23@gmail.com>

Dec 14,  
2021,  
4:00 PM

to Tim

Greetings, Tim:

First, thanks for the discussion and explanation. Clearly, I did not know or even think about 'a statute'. Lesson learned.

I'm also happy to know that (hopefully) someone will talk to David Bea about his actions and responsibilities.

Here is what I was talking about and the document is attached for your reference.

My first discussion and email to David Bea started on Sept 24th, 2019. The same day he agrees to \$185K and asks me to stay.

The actual check (and only after my repeated requests) comes to me on April 14th, 2020.

Sept 24th, 2019 to April 14th, 2020 is clearly more than 6 months.

What do you think?

Plmk, I appreciate your help. Raj.



**Raj Murthy** <rajkm23@gmail.com>

Wed, Dec  
15, 2021,  
9:49 AM

to Tim

Good morning, Tim.

In addition to my question yesterday, could you please also share the Az state statute that you mentioned yesterday that says I cannot be compensated because it's been more than 6 months since my claim?

Thank you for your time and consideration. Best wishes, raj.

--

Raj Murthy  
Attachments area



**Tim Medcoff**

Dec 17,  
2021,  
6:12 PM

to Jane, me

Raj,

I reviewed your timeline and supporting documents, etc. in more detail. The written evidence shows there was no verbal or written agreement in September. David Bea only agreed in writing to see what he could do in September. Rather, the verbal agreement (which I cannot confirm) would have happened in mid-October or later. David and the College then did some due diligence to determine a fair wage increase

for you which it delivered to you in mid-April (i.e., a pay raise and retroactive pay). Thus, the additional information below, unfortunately, does not change my analysis or the position of the College. I'm sorry.

I know this is not the news you want to hear, but I will clarify that the College has or will talk to David Bea to stress the importance of clear written communications in the future to avoid confusion or misleading another employee. That has happened or will happen.

Finally, the relevant statute is A.R.S. § 12-821.01.

All the best to you and your family.

Tim

**From:** Raj Murthy <[rajkm23@gmail.com](mailto:rajkm23@gmail.com)>  
**Sent:** Tuesday, December 14, 2021 3:00 PM  
**To:** Tim Medcoff <[tmedcoff@farhangmedcoff.com](mailto:tmedcoff@farhangmedcoff.com)>

---



**Raj Murthy** <[rajkm23@gmail.com](mailto:rajkm23@gmail.com)>

Dec 20,  
2021,  
11:34  
AM

to Tim

Good morning, Tim.

Thank you for your response.

All the best to you and your family as well. Make it a great holiday season.

Best wishes, Raj.

-----

The end.

My next email was to you.

**Subject:** Re: Complaint Submitted  
**Date:** Wednesday, March 16, 2022 at 3:36:53 PM Central Daylight Time  
**From:** Raj Murthy <rajkm23@gmail.com>  
**To:** Complaints <complaints@hlcommission.org>  
**Attachments:** Emails-to-KRipley-PCC.docx

**CAUTION:** This email originated from outside of the organization.

Greetings, and an apology.

I missed attaching two emails with board member Kathrine Ripley. I have appended them to the original email with all the threads. The file with all the emails is attached here.

Thank you for your time and consideration. Best wishes, Raj.

I know that the board convened a special exec meeting to deliberate my concerns. I have not heard back from board member Ripley on the outcome. It is my suspicion that she most likely shared the "incident" with the other board members but did not share the details or my emails. But, I could be wrong.

Please acknowledge receipt of the attachments. Thank you and best wishes.

Raj Murthy

On Mon, Mar 14, 2022 at 5:01 PM Raj Murthy <rajkm23@gmail.com> wrote:

Greetings.

I have sent you an email with 4 attachments detailing my entire complaint including my most recent discussion (over email) with board member Katherine Ripley. You know everything there is to now to date regarding the complaint. Happy to discuss further and respond to any of your questions. Please acknowledge receipt of this email and the 4 files in a previous email. Thank you. Raj.

On Mon, Mar 14, 2022 at 2:00 PM Complaints <complaints@hlcommission.org> wrote:

Good afternoon,

The Higher Learning Commission has conducted a preliminary review of your complaint and we are following up for additional information. Specifically, your complaint notes that you have documentation related to the circumstances leading to your complaint. However, the documentation does not appear to have been submitted with your complaint. At your convenience, please provide a copy of this documentation for review.

The requested information can be provided as a direct response to this email. Supporting materials can be provided as attachments in PDF format. Upon receipt of the information, HLC will proceed with a full review of your complaint.

Please let us know if you have any questions.

Thank you,

HLC Staff

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**From:** Raj Murthy <[RajKM23@gmail.com](mailto:RajKM23@gmail.com)>  
**Date:** Thursday, March 10, 2022 at 10:52 PM  
**To:** Complaints <[complaints@hlcommission.org](mailto:complaints@hlcommission.org)>  
**Subject:** Complaint Submitted

**CAUTION:** This email originated from outside of the organization.

**Contact Information**

First name: Raj

Last name: Murthy

Email address: [RajKM23@gmail.com](mailto:RajKM23@gmail.com)

Phone number: 7243884091

Street address: 1101 South Ridge Drive,

City: Stillwater

State: OK

ZIP code: 74074

Complainant type: Member of the public

Current or former, if applicable:

Date of last attendance/employment, if applicable:

Program of study, if applicable:

Degree program level, if applicable:

Referred by: Web search

### **Complaint Details**

Institution: 1012 - Pima County Community College District - AZ

Date that matter of complaint occurred: 07/30/2021

Circumstances leading to complaint:

Greetings, Dr. Gellman-Danley.

I write to you to report violations of the HLC Criteria for Accreditation at Pima County Community College District. After exhausting all my attempts to reach an amicable resolution with PCC, the institution left me no choice but to share with the HLC unethical behavior that extends over two years.

CRITERION 2. INTEGRITY: ETHICAL AND RESPONSIBLE CONDUCT: The institution acts with integrity; its conduct is ethical and responsible.

Core Components 2.A. The institution establishes and follows policies and processes to ensure fair and ethical behavior on the part of its governing board, administration, faculty and staff. 2. The institution operates with integrity in its financial, academic, human resources and auxiliary functions.

My 5-years of experience at PCC is described below and demonstrates the deliberate violations of the criterion mentioned above of integrity and ethical and responsible conduct.

A high-ranking official at PCC – Dr. David Bea, the Executive Vice Chancellor for Finance and Administration, lied and intentionally used his role to defraud me of a promise he made regarding my continued employment.

This matter extends over two years, and after my repeated written requests to remedy the situation, it was not resolved before I departed the institution. Mr. Bea's only advice over my 5-year tenure at PCC was, 'Don't put anything in writing to protect yourself from FOIA.'

As you will see in the following documents, he lived true to his advice. He promised me in conversation but deliberately avoided putting anything in writing, even after my constant requests. He even used words to obfuscate the process consciously and deliberately.

Here is a summary of the event. Details are attached separately for your detailed review. You can also contact me at (724) 388 4091 or write to me at RajKM23@Gmail.com for any clarification.

The outcome that I am expecting is a Focused or Advisory Visit to the institution to investigate these improprieties.

Summary: All the details can be verified in the attachments.

1. Approximately two years ago, I applied for the role of CIO at another college in Texas and was a finalist.
2. I reached out to David Bea and told him of the offer and the pay scale of \$185K.
3. He promised to match the salary and asked me to withdraw from the interview process, which I promptly did and sent him confirmation of my withdrawal.
4. Several months passed by, and nothing happened. Finally, I reminded him of his promise in One-on-One meetings and email.
5. He ignored everything I said in the email and promised me he was working with the Chancellor to make things right in the conversation.
6. He never referred me to HR or included them in our conversations.
7. My first installment of the promise happened almost nine months later. He blamed everyone else and told me he was working on the difference—details in attachments. I've reached my 50 words. Rest in attachment.

Attempted to file a complaint with the institution: Yes

Description, if yes: I first wrote to my direct supervisor David Bea who is responsible for and created this entire problem. He ignored me as he has done for the last 1.5 years. I wrote to the Chancellor Lee Lambert next who referred me to a lawyer. Findings in the following attachment. I finally wrote to Board member Katherine Ripley. After the first couple of emails, I have not heard back from her for several weeks. Hence, my complaint to the HLC.

Attempted to address issue outside of institution: No

Description, if yes:

#### **Release of Information and Acknowledgment of Complaints Policy and Process**

I authorize HLC to contact me using the information provided in this form. I understand that communications from HLC regarding my complaint will generally be by email, with such correspondence addressed from [complaints@hlcommission.org](mailto:complaints@hlcommission.org).

I authorize HLC to submit a copy of the complaint and supporting materials to the above-named institution and/or other external parties. I authorize the institution to disclose education record information, personnel information and/or other information related to me to HLC or other external parties for the purpose of responding to this complaint. I understand that if I intend to revoke this authorization, I must notify the institution of this decision in writing.

I understand and acknowledge the HLC complaint policy, process, and requirements as described above. I certify that my complaint falls within the requirements as described. I certify that the information I have provided is complete, true and accurate to the best of my knowledge and belief.

*The information contained in this communication is confidential and intended only for the use of the recipient named above, and may be legally privileged and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please resend it to the sender and delete the original message and copy of it from your computer system. Opinions, conclusions and other information in this message that do not relate to our official business should be understood as neither given nor endorsed by the organization.*

--  
Raj Murthy

--  
Raj Murthy



Greetings, HLC members.

My email communication with board member Katherine Ripley after all my attempts to resolve the issue with Pima administration failed i.e., Chancellor Lee Lambert and CFO David Bea.

Emails are in date order from 1<sup>st</sup> to last.

Jan 17,  
2022,  
1:00 PM

**Raj Murthy** <rajkm23@gmail.com>

to District1,

Greetings, and good morning - Board member Ms. Ripley.

My name is Raj Murthy and I was the CIO at Pima Community College. We met a couple of times and I presented to the board on security where you were present.

I feel sad writing to you about this matter, but have no other choice left. Attached are 3 letters;

- a. First document is addressed to you and lays out the situation.
- b. Second document is a letter to Lee Lambert seeking fairness and remedy.
- c. Third document is a letter to the PCC lawyer giving him all the details of how David Bea lied and cheated me.

I look forward to hearing from you. All I seek is fairness.

Due to the nature of how emails are processed these days, I would greatly appreciate it if you could please acknowledge receipt of this email. It will give me comfort that it did not end up in junk mail.

I thank you for your time and consideration.

Best wishes to you and your family.

Raj Murthy.  
724 388 4091

I did not receive a response and reached out to her over LinkedIn. She responded promptly and graciously.

My second email to her at which point she acknowledged that my first email ended up in her spam folder.

---

2<sup>nd</sup> email.

**Raj Murthy <rajkm23@gmail.com>**

Jan 26,  
2022,  
3:04 PM

to CRipley

Greetings, Ms. Ripley,

Here is the email I first sent you. The second one was inquiring if you received it. I'll forward that next. You may want to find out why you haven't received this email, just in case there are other emails that you are missing.

Best wishes and thank you for your time, consideration,  
and thoughts.

---

3<sup>rd</sup> email from her to me.

**Ripley, Catherine** <cripley@pima.edu>

Wed,  
Jan 26,  
4:58 PM

to me

Dear Raj,

Thank you. I just received your emails. The originals you sent apparently went to my spam folder for some reason! So I'm glad you reached out. I will get back to you as soon as I've done my due diligence on this matter.

Catherine

--

Catherine Ripley  
Governing Board  
District 1  
Pima Community College  
(520) 429-5064

"Hear this, young men and women everywhere, and proclaim it far and wide.  
The earth is yours and the fullness thereof. Be kind, but be fierce. You are needed  
now more than ever before. Take up the mantle of change. For this is your time."  
- Winston Churchill

----- My response to her. 4<sup>th</sup> email -----



**Raj Murthy** <rajkm23@gmail.com>

Thu, Jan  
27,  
10:43  
AM

to Catherine

Good morning, Ms. Ripley.

Thank you for confirming receipt.

Absolutely, please take your time to investigate. I also want to offer my complete, full, and honest response to any question you have for me.

I only come forth because of the nature and spirit of the situation. I worked at Pima for 5 full years, my point, this is not a one-time thing, this form of unethical behavior is endemic.

You can call me at 724 388 4091 whenever you have a question, if I'm unavailable, I'll return your call soon thereafter. I want you to know all of the 'truth'.

I appreciate your time and willingness to look into the issue. This is my time to 'You are needed now more than ever before.

Take up the mantle of change. For this is your time."

Best wishes and be well. I stand ready to answer all your questions. Raj.

--

Raj Murthy

----- Her response to me – 5<sup>th</sup> email -----



**Ripley, Catherine** <cripley@pima.edu>

Sun,  
Feb 6,  
2:02  
PM

to me

Dear Mr. Murthy:

Thank you for sharing your concerns with me. This is all news to me, so I have to do some preliminary due diligence. You raise some very serious allegations against David Bea and Lee Lambert. For example, you allege that Mr. Bea has been manipulating the system with dishonesty, lack of integrity, and cheating people. You also assert that Mr. Lambert abdicated his responsibilities multiple times in your letter. These allegations are very concerning to

me. Thus, as part of my review, I need more specific information from you to ascertain what additional facts or evidence you have to substantiate these grave claims. From the materials you have provided, I was not able to identify specific evidence that demonstrates the points raised in your letter.

Is there some specific item that I might have missed or additional information you have that you could provide? If so, I would be glad to consider your concerns further. What specific information can you provide that shows the alleged pattern of dishonest conduct by Messrs. Bea and Lambert? While College administrators should be held to high standards of conduct, I hope you will appreciate the importance of specific evidence that supports claims of wrongful conduct.

I do regret that your service with Pima College ended on a negative note, and I appreciate the spirit in which you have shared your concerns. Please provide any more specific evidence or facts that you have to help me further investigate your concerns and/or claims. I look forward to your response, and I will investigate further after I get your additional information.

Very Respectfully,

Catherine Ripley

----- My response to her – 6<sup>th</sup> email -----

**Raj Murthy <rajkm23@gmail.com>**

Feb 12,  
2022,  
3:41 PM

to Catherine, bcc: Raj

**Greetings, Ms. Ripley.**

**Thanks for your email. I have responded inline to maintain flow. Again I'm happy to discuss any of these issues in person if you wish.**

On Sun, Feb 6, 2022 at 2:02 PM Ripley, Catherine <[cripley@pima.edu](mailto:cripley@pima.edu)> wrote:  
Dear Mr. Murthy:

Thank you for sharing your concerns with me. This is all news to me, so I have to do some preliminary due diligence. You raise some very serious allegations against David Bea and Lee Lambert. For example, you allege that Mr. Bea has been manipulating the system with dishonesty, lack of integrity, and cheating people.

My question about my pay has been ongoing for approximately 2 years. I have sent him emails, text messages and mentioned it several times in my conversations with him. His comment to me in our discussions was always - I'm talking to the Chancellor and I'll get this resolved soon. "Soon" - never came. You can see all the details in my email attachments to you. Your (Pima's) lawyer said to me, and I para-phrase - I agree he misled you, failed to communicate, and did not meet his obligation as your boss. He will be 'talked to' by the administration. David Bea has been at Pima for over 20 years, so this is not an accident or a unique situation. Requests for pay scale changes happened regularly. Yet, in this case, he deliberately did not follow Pima's policy, process, or protocols. He said he was talking to Lee about it, who failed to refer the subject to HR as well. When I referred my issue to HR he used his position to stop the system from intervening on my behalf as seen in my previous attachments. He lied to me and made a promise he did not keep. He lied to your own lawyer about a discussion that never happened and he cheated me of what I was promised. As per HLC that is a failure of integrity - Policy, and process.

As for the word 'people'. I believe he was dishonest with the board in some other matters. But, based on legal advice, I do not want to distract from the matter at hand. I assure you that I have personal experience on matters that are categorically dishonest when they were shared with the Board. But, for sake of clarity, let's shelf

or disregard those matters at this time and focus on what happened with me.

You also assert that Mr. Lambert abdicated his responsibilities multiple times in your letter. These allegations are very concerning to me. Thus, as part of my review, I need more specific information from you to ascertain what additional facts or evidence you have to substantiate these grave claims. From the materials you have provided, I was not able to identify specific evidence that demonstrates the points raised in your letter.

Is there some specific item that I might have missed or additional information you have that you could provide? If so, I would be glad to consider your concerns further. What specific information can you provide that shows the alleged pattern of dishonest conduct by Messrs. Bea and Lambert? While College administrators should be held to high standards of conduct, I hope you will appreciate the importance of specific evidence that supports claims of wrongful conduct.

As for Lee Lambert. I believe he abdicated his responsibility when I referred the matter to him, based on the premise that legal services, HR, and ODR cannot do their job responsibly based on their relationships. He made no attempt to learn or talk to me directly to learn what had happened. I know of other situations where he has done the same thing with other people (a strange coincidence - people of color) but, not when it came to his own Chief of Staff - Tom Davis. I have nothing against Tom, my experience with him was very good. He is a good and decent person. This is about policy and process. I have also been present at several events where the Chancellor made direct and disparaging remarks about the Board attempting to create an environment of 'Us' vs. 'Them'. He sent emails every time there was an article about a 'rogue board incident in the country' creating a cadence of distrust. I hear from reliable sources that you yourself were present at one such event with an external speaker and asked the presenter to make a

more balanced presentation next time. At all my meetings with him, he was only interested in listening to news that directly led to praise for him. Any difference of opinion was instantly stopped.

I can show you a significant list of Chancellor-led issues that I have documented over the last 4 years, and I have stated the spirit of most of them in my previous email to you. Based on the lawsuit filed by Bill Ward recently, the legal advice I have received is to hold off on this part of the discussion and focus only on my case with D. Bea.

I would like to summarize it as follows. I have shared the details of my issue concerning David Bea and how it negatively impacted me. My findings were also ratified by Pima's lawyer who agreed what happened with me was wrong but for a technicality.

I share my issues with Lee Lambert only to make the point that a person like David Bea exists and does what he does because there is a guy like Lee Lambert behind him. That is the spirit of my message - my experience of 5 years tells me that - Lee is the bigger problem. I have a long list of detailed events, and elaborate discussions, but, all that for another day. One that I hope never comes, but, I hope for the best and prepare for the worst.

I bring forward my case to you about David Bea. I leave it up to you to make the best meaning.



Sidebar: Full disclosure.

My lawyer tells me the clock starts after I have exhausted all my efforts by following the chain of command to which you are my last stop. Once our discussion is concluded, I have 6 months to raise the issue with the state government or file a lawsuit. If need be I am also planning to share my story with others.

I do regret that your service with Pima College ended on a negative note, and I appreciate the spirit in which you have shared your concerns. Please provide any more specific evidence or facts that you have to help me further investigate your concerns and/or claims. I look forward to your response, and I will investigate further after I get your additional information.

Me too Ma'am. I felt badly leaving Pima, this is not how I had expected things to end. I have some great friends at Pima and have come to love the spirit and purpose of what a Community College does. From my end, I made every attempt to focus on reality and the disharmony and disorganization that was happening inside, and Jeff Silvyn with whom you will discuss this email will bear witness to my attempts to do good. Jeff is another very good person I met and worked with at Pima. But, all that came to an end, I could no longer work at an institution led by a completely unintelligent, disingenuous, and narcissistic leader who was creating an internal environment of distrust and fear.

At the end of the day, the PCC student has nowhere else to go and depends on us to provide them with the skills and knowledge they need to move forward in life. I believe in my 5 years at Pima we fell short of our promise as evidenced by the falling enrollment numbers

for the last 8 years. That is my biggest pain. I came there to make a difference, and I failed and I couldn't take any more of it, and in my humble opinion for whatever that is worth, there is only one person to blame, Lee Lambert.

With that I have done my part, I choose not to just walk away and hope someone else does the dirty job of clean-up. I stood up, invested my time and life to write about all this to you. Unfortunately, there is nothing more I can do, but to say - my work ends here and yours begins. I am sorry to dump this in your lap. I really am. Come what may, we can all do better for those who need us most, else we'll turn into a third world country and I know a lot about that.

I'm happy to answer any questions you may have, I prefer a f2f call because it helps me explain. My number again is 724 388 4091.

Best wishes, God bless, and make it a great weekend.  
Raj.

----- Her response – The 7<sup>th</sup> email. -----

**Ripley, Catherine**

Feb 13,  
2022,  
11:32  
AM

to me

Thank you for your email. I will continue to sort through this very complex issue. I'm sorry to hear that you are suing the college. It is terribly unfortunate that your pay issue

was such a tremendous burden. I do hope you are doing ok these days. We are all going through so much these past two years. Many staff and students are struggling to make ends meet due to pandemic issues. We are working hard to ensure everyone is taken care of. Enrollment at colleges is down across the nation even before pandemic. A giant issue to consider when negotiating salaries for a nonprofit college like ours. Please standby as I sort through your case. Thank you for your patience.

Very Respectfully,  
Catherine Ripley

---

----- My response to her – the 8<sup>th</sup> email.

**Raj Murthy <rajkm23@gmail.com>**

Feb 13,  
2022,  
12:46  
PM

to Catherine, bcc: Raj

Greetings and happy Sunday Ms. Ripley and thanks for this conversation. A short couple of thoughts based on your message are inline.

On Sun, Feb 13, 2022 at 11:32 AM Ripley, Catherine <[cripley@pima.edu](mailto:cripley@pima.edu)> wrote:  
Thank you for your email. I will continue to sort through this very complex issue. I'm sorry to hear that you are suing the college. It is terribly unfortunate that your pay issue was such a tremendous burden.

Thank you for sorting through the mess. I have not yet made that determination to sue because I want to give this process a chance. My pay issue is a 'tremendous burden' not because of the \$\$ amount, but, because of the sheer arrogance and disrespect that I was shown. The \$\$ amount is negligible. My pain is based on how easy it was for DBea to use a higher position to discard another human being and then lie about it and finally get an entire institution to support it. That support will only bolster the arrogance and repeat the

behavior. Administration creates policies and processes to ensure fairness and equity. We spent thousands of dollars while I was there hiring consultants to about it, and, yet admin is immune to violating those very policies and using the size of the institution and their roles to silence me. I gave David Bea plenty of opportunities to talk to me, he summarily ignored and discarded all of it. Even on my last day, he could have picked up the phone, apologized, that he had not been able to resolve it and I would have walked away. Instead, he decided to ignore me, yet again.

I do hope you are doing ok these days. We are all going through so much these past two years. Many staff and students are struggling to make ends meet due to pandemic issues. We are working hard to ensure everyone is taken care of.

Yes, Ma'am. I know this all too well. Remember I was working for the same purpose for the last 5 years, and what I experienced during the last 2 years was disorganization, lack of oversight, and a ridiculous waste of resources which was painful. I decided to leave because of the incredible cluster that we had become. Even on my very last hour at Pima, I was involved in upgrading Banner to ensure students were paid on time. So, yes, I know from deep down in the trenches.

Enrollment at colleges is down across the nation even before pandemic. A giant issue to consider when negotiating salaries for a nonprofit college like ours.

...true, and yet the chancellor keeps asking for more pay and more security for his job in the face of all that you mention. I'm sure you know what happens to a coach who has 8 losing seasons? He offers the least expensive service in the county for the people who need it most,

yet, people choose to pay more and go elsewhere, and that is my point. We need to look inwards at what we are producing. The solution is in changes we need to make within us. Also, please note, while my pay was an issue, everybody else around him got large pay raises and you can ask to see that report.

Please standby as I sort through your case. Thank you for your patience.

I'm happy about this conversation. I want you to see and feel what I saw and experienced. I have nothing personal against the chancellor, he has always been polite and courteous to me. This is about the cause, this is about doing something for people who have nowhere else to go. Done right, it will change the lives of many. After 8 years it was obvious to me, Lee was not that person, because he is a fake who regurgitates headlines.

So, as to bring some form to our discussion. I'd like to know if we continue this discussion for some resolution or if we are done with the work between us. That will help me decide my next steps.

Thanks for listening and this discussion. Best wishes, be well. Raj.

---

----- Forwarded message -----

From: **Raj Murthy** <[rajkm23@gmail.com](mailto:rajkm23@gmail.com)>

Date: Sun, Feb 13, 2022 at 4:13 PM

Subject: Fwd: A perspective

To: Ripley, Catherine <[CRipley@pima.edu](mailto:CRipley@pima.edu)>

Greetings Ms. Ripley,

I apologize for the intrusion. But, I feel compelled to share this perspective with you to give you some context.

When I wrote to Lee Lambert on my last day, he immediately punted his responsibility to an external lawyer. As the leader, I expected him to say, let me do a quick review of your allegation considering I have been implicated by David Bea on several occasions. Did he report it to Legal, ODR, HR, or tell the board?

I worked at Pima as the CIO for 5 years, that was the least he could do as a leader. Basic leadership 101. Instead, he punted it. The lawyer did what lawyers do, sided with me and ended it on a technicality.

But, I am going to give Lee the benefit of the doubt, (Though I know he will avoid all conflict and controversy at all times and look to blame someone else behind their back, be that what it is...) After the lawyer and I concluded. I expected the Chancellor to come back and say;

"I got the report, I'm sorry about what happened and I'm going to make some changes and make sure this never happens again. I'm sorry we can't go back in time and make it right, but, I hope you will accept my apology and know that your complaint made things better at Pima."

I would have happily accepted this response and moved on. Instead, crickets.

Silence is a coward's way of siding with the oppressor.

Unless you believe otherwise, and as a matter of transparency and integrity, I would like to share my incident with all the other board members. The administration must be held accountable and responsible to a higher standard (CRipley).

Thanks for listening. I wish you the very best as the next board chair.

Best wishes, Raj.

--

Raj Murthy



**Ripley, Catherine**

Feb 14,  
2022,  
8:06 PM

to me

Dear Prof Murthy,

This is a serious matter for which I am taking great care to address. I am already working with several people to get all the facts and chronology straight to include meeting with Tim Medcoff. This may have serious implications and actions so I must do my due diligence in order to be responsible. The good of the college is always my first and foremost concern otherwise students suffer. Contacting other board members at this point will only serve to create more chaos. If you are free to speak with whoever you wish of course.

Thank you,  
Catherine

--

Catherine Ripley  
Governing Board  
District 1  
Pima Community College  
(520) 429-5064

"Hear this, young men and women everywhere, and proclaim it far and wide.  
The earth is yours and the fullness thereof. Be kind, but be fierce. You are needed  
now more than ever before. Take up the mantle of change. For this is your time."  
- Winston Churchill



**Raj Murthy** <rajkm23@gmail.com>

Feb 16,  
2022,  
11:01  
AM

to Catherine

Greetings, Ms. Ripley.

Thank you for taking my request seriously. After my previous experience with PCC administration namely (LL and DB) I did not want to be ignored. I appreciate your due diligence and welcome it.

I couldn't agree more with you about the well-being of students at Pima. I worked with the same mindset for 5 years at Pima. I want what is best for them as well. PCC is the most economical option for their education. If I didn't believe that, I would have walked away and let someone else worry about it. My current opportunity is bigger and better in every way, I don't need to do this, but if I don't nobody else will, and Pima will be the lesser for it.

I have no intention of creating any chaos, all I want is fairness. I shall wait for your decision.



Sidebar: One word of advice (as a friend), please - PLEASE be very clear in your thinking when you go through your research. My experience at Pima has taught me that when you ask one question, people will split and branch the question into 4 other questions. The goal is purely to obfuscate the matter until a mountain of closely-related and unrelated information completely overwhelms all your senses, and before long you will be on the Chancellor's Kool-aid. Don't let them dull your senses. This is based on 5 years of listening to the lies and trying to pass them off as shades of truth.

Please feel free to call me if you want specific clarifications. 724 388 4091. Raj.

"Be kind, but be fierce. You are needed now more than ever before. Take up the mantle of change. For this is your time."

----- This was the last email. She has not responded to me since February 13<sup>th</sup>. 4 weeks to the date.

I don't want to walk away, because silence is a coward's way of siding with the oppressor. I want to be heard. Thank you for your time. Raj Murthy.

# **EXHIBIT 25**

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## Dr. Bruce Moses Announcement

1 message

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**Burdick, Phillip** <pburdick@pima.edu>

Thu, Dec 23, 2021 at 8:34 AM

Reply-To: pburdick@pima.edu

To: Pima-All@pima.edu

***Sent on behalf of Chancellor Lee Lambert***

It is with mixed emotions that I tell you that Dr. Bruce Moses, Vice-Chancellor, Educational Services and Institutional Integrity, has been appointed as the new President of Allen Community College located in eastern Kansas. Bruce was approved by a unanimous vote of the Allen Community College Board of Trustees and will begin his new position on July 1, 2022.

As many of you know, Bruce developed and led critical new institutional accreditation and federal compliance efforts across the College that brought PCC back to full accreditation with the Higher Learning Commission and in compliance with Title IV with the U.S. Department of Education. Additionally, under his leadership, PCC has become a leader in student learning outcomes assessment, financial aid administration, and our athletic programs.

While we are sad to see Bruce leave, we are pleased he will have an opportunity to lead Allen Community College and bring his energetic, thoughtful and visionary leadership to Allen CC students, faculty, administrators and its entire community. Please join me in congratulating Bruce on his new position and wishing him the very best.

Lee D. Lambert  
Chancellor

Phil Burdick  
Interim Vice Chancellor for External Relations



**PimaCommunityCollege**

4905 E. Broadway Blvd.  
Tucson, AZ 85709-1130  
Cell: 847.951.6183  
[pburdick@pima.edu](mailto:pburdick@pima.edu)



Shippee, Seth &lt;rshippee@pima.edu&gt;

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## Vice Provost Lamata Mitchell Announcement

1 message

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**Burdick, Phillip** <pburdick@pima.edu>  
Reply-To: pburdick@pima.edu  
To: Pima-All@pima.edu  
Cc: Phillip Burdick <pburdick@pima.edu>

Mon, Feb 21, 2022 at 8:19 AM

### Sent on behalf of Provost and Executive Vice Chancellor Dolores Duran-Cerda

Dear Colleagues,

It is with mixed emotions that I tell you that Vice Provost Lamata Mitchell will be leaving us at the end of the month to take another position. We deeply appreciate Lamata's work in heading up numerous academic initiatives, procedures and policies, and her positive energy and passion for community colleges and the students we serve will be greatly missed.

We will be starting a search to fill Lamata's position shortly. In the meantime, Bruce Moses, Vice-Chancellor, Educational Services and Institutional Integrity, will be stepping into the Vice Provost role on an interim basis until the position is filled. Bruce held this position previously at PCC.

On behalf of the entire College, we are grateful for Lamata's contributions in moving Pima forward and wish her all the best as she embarks on a new path.

Phil Burdick  
Interim Vice Chancellor for External Relations  
**Finish**  PimaCommunityCollege  
4905 E. Broadway Blvd.  
Tucson, AZ 85709-1130  
Cell: 847.951.6183  
[pburdick@pima.edu](mailto:pburdick@pima.edu)

# Lamata Mitchell, PhD, Named Chief Learning Officer for AdventHealth

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March 15, 2022  
AdventHealth



AdventHealth has named Lamata Mitchell, PhD, vice president and chief learning officer for the health system, effective March 14.

Dr. Mitchell will be the first to serve in this role and will lead the organization's learning strategy across four communities – leaders, team members, future talent and clinical talent – through educational resources and opportunities offered by the AdventHealth Leadership Institute, the AdventHealth Learning Network, AdventHealth University and other educational partners. She will report to Olesea Azevedo, senior vice president and chief people officer for AdventHealth.

"Lamata is a seasoned educator who's made education opportunities accessible to diverse learners throughout her career," Azevedo said. "As AdventHealth strives to become a dynamic learning community for all team members, Lamata will be instrumental in cultivating a culture that makes continuous learning possible across disciplines and leadership levels."

Becoming a dynamic learning community is one of the foundational aspirations in AdventHealth's strategic plan, with Randy Haffner, Central Florida Division president/CEO, serving as the aspiration's executive

sponsor.

“We are thrilled to welcome Lamata to the team to help advance the work behind AdventHealth’s dynamic learning aspiration,” Haffner said. “Her rich background and dedication to diverse learners will be instrumental as we make learning an inherent part of our culture.”

Dr. Mitchell has extensive experience in learner success, curriculum development, assessment of learning and classroom innovation. She comes to AdventHealth from Pima Community College in Tucson, Arizona, one of the largest multi-campus community colleges in the nation, where she most recently served as vice provost after serving as the vice president of instruction and academic operations. Her previous roles also include dean of communication, social sciences and humanities, and before that associate dean of communication, English and education at Rock Valley College in Rockford, Illinois.

“It’s so exciting to come to this organization at a time when learning opportunities are expanding to help our team members learn and grow and ultimately fulfill their calling at AdventHealth,” Dr. Mitchell said. “I look forward to joining the team and sharing my passion for learning, and experience creating dynamic learning environments, with my colleagues across the system.”

Dr. Mitchell earned a PhD in English from Northern Illinois University, a Master of Arts in English from Andrews University, a Master of Arts in publishing and journalism from Loughborough University and a Bachelor of Arts in English and philosophy from Trent University. She has served as a member of the Tucson Chapter of the National Association for the Advancement of Colored People (NAACP), most recently as chair of the chapter’s Education Committee.

Together with her husband and best friend Kent, Dr. Mitchell has two adult children, S.D. Kendra, a violinist, and Kanhai, a physician. In addition to learning, Dr. Mitchell enjoys reading, traveling, sketching and doing anything that stimulates creativity in her free time.

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## Isaac Abbs Named Assistant Vice Chancellor For Information Technology And Chief Information Officer

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**Burdick, Phillip** <pburdick@pima.edu>  
Reply-To: pburdick@pima.edu  
To: Pima-All <Pima-All@pima.edu>  
Cc: Phillip Burdick <pburdick@pima.edu>

Fri, May 27, 2022 at 2:33 PM

***Sent on behalf of David Bea, Executive Vice Chancellor for Finance and Administration***

Colleagues,

I am pleased to announce that, following a national search, Isaac Abbs will be returning to the College as the Assistant Vice Chancellor for Information Technology and Chief Information Officer.

As the College's Director of Enterprise Systems from 2010 to 2019, Isaac was responsible for the development, implementation, and communication related to the College's enterprise systems and was instrumental in developing the consolidated enterprise team. Since leaving the College in 2019, he has served as the Technology Services Director for the Town of Marana, overseeing security, applications, network, infrastructure, and asset management.

Isaac has an M.S. in Management Information Systems from the University of Illinois at Springfield and a B.A. in Interdisciplinary Studies from the University of Arizona. He is ITIL V3 Level 1 Certified and has completed the EDUCAUSE Management Institute program.

I would also like to sincerely thank Jack Satterfield for his leadership as the Acting AVC for IT. Jack will be taking on additional responsibilities for the College as the Director of Technical Services and Chief Technology Officer. In this expanded role, he will continue to improve and modernize the College's IT infrastructure, plan for new technologies, and will assume responsibility for Information Technology security.

Please join me in welcoming Isaac back to the College and thanking Jack for his outstanding service.

David Bea  
Executive Vice Chancellor for Finance and Administration

Phil Burdick  
Interim Vice Chancellor for External Relations

**Finish**  PimaCommunityCollege

4905 E. Broadway Blvd.  
Tucson, AZ 85709-1130  
Cell: 847.951.6183  
[pburdick@pima.edu](mailto:pburdick@pima.edu)

# **EXHIBIT 26**



## 2022 Race & Ethnicity

	Administrator	Adjunct Faculty	Faculty	Staff	Total
American Indian or Alaska Native	1	4	3	33	41
Asian	1	32	14	39	86
Black or African American	4	14	7	66	91
Hispanic	10	77	36	417	540
Multi-racial	0	6	3	36	45
Native Hawaiian or Other Pacific Islander	0	1	1	3	5
Not Self-Identified	0	19	2	22	43
White	27	461	190	828	1,506
<b>Total</b>	<b>43</b>	<b>614</b>	<b>256</b>	<b>1,444</b>	<b>2,357</b>

## 2022 Gender

	Administrator	Adjunct Faculty	Faculty	Staff	Total
Female	19	341	144	799	1,303
Male	24	271	112	639	1,046
Not Reported	0	2	0	6	8
<b>Total</b>	<b>43</b>	<b>614</b>	<b>256</b>	<b>1,444</b>	<b>2,357</b>



# **EXHIBIT 27**



## QuickFacts Tucson city, Arizona

QuickFacts provides statistics for all states and counties, and for cities and towns with a **population of 5,000 or more**.

### Table

All Topics	Tucson city, Arizona
<b>Population Estimates, July 1 2021, (V2021)</b>	543,242
PEOPLE	
<b>Population</b>	
<b>Population Estimates, July 1 2021, (V2021)</b>	543,242
Population estimates base, April 1, 2020, (V2021)	541,349
Population, percent change - April 1, 2020 (estimates base) to July 1, 2021, (V2021)	0.3%
Population, Census, April 1, 2020	542,629
Population, Census, April 1, 2010	520,116
<b>Age and Sex</b>	
Persons under 5 years, percent	5.7%
Persons under 18 years, percent	20.6%
Persons 65 years and over, percent	14.8%
Female persons, percent	50.5%
<b>Race and Hispanic Origin</b>	
White alone, percent	69.3%
Black or African American alone, percent (a)	4.9%
American Indian and Alaska Native alone, percent (a)	3.3%
Asian alone, percent (a)	3.2%
Native Hawaiian and Other Pacific Islander alone, percent (a)	0.2%
Two or More Races, percent	8.7%
Hispanic or Latino, percent (b)	44.2%
White alone, not Hispanic or Latino, percent	43.3%
<b>Population Characteristics</b>	
Veterans, 2016-2020	37,812
Foreign born persons, percent, 2016-2020	14.6%
<b>Housing</b>	
Housing units, July 1, 2021, (V2021)	X
Owner-occupied housing unit rate, 2016-2020	51.7%
Median value of owner-occupied housing units, 2016-2020	\$165,900
Median selected monthly owner costs -with a mortgage, 2016-2020	\$1,212
Median selected monthly owner costs -without a mortgage, 2016-2020	\$427
Median gross rent, 2016-2020	\$861
Building permits, 2021	X
<b>Families &amp; Living Arrangements</b>	
Households, 2016-2020	215,943
Persons per household, 2016-2020	2.40
Living in same house 1 year ago, percent of persons age 1 year+, 2016-2020	77.0%
Language other than English spoken at home, percent of persons age 5 years+, 2016-2020	32.6%
<b>Computer and Internet Use</b>	
Households with a computer, percent, 2016-2020	92.9%
Households with a broadband Internet subscription, percent, 2016-2020	86.4%
<b>Education</b>	
High school graduate or higher, percent of persons age 25 years+, 2016-2020	85.9%
Bachelor's degree or higher, percent of persons age 25 years+, 2016-2020	28.2%
<b>Health</b>	
With a disability, under age 65 years, percent, 2016-2020	11.0%
Persons without health insurance, under age 65 years, percent	13.2%
<b>Economy</b>	
In civilian labor force, total, percent of population age 16 years+, 2016-2020	60.7%

In civilian labor force, female, percent of population age 16 years+, 2016-2020	57.8%
Total accommodation and food services sales, 2017 (\$1,000) (c)	1,587,823
Total health care and social assistance receipts/revenue, 2017 (\$1,000) (c)	5,235,980
Total transportation and warehousing receipts/revenue, 2017 (\$1,000) (c)	661,520
Total retail sales, 2017 (\$1,000) (c)	8,459,920
Total retail sales per capita, 2017 (c)	\$15,619

#### Transportation

Mean travel time to work (minutes), workers age 16 years+, 2016-2020	22.4
--	------

#### Income & Poverty

Median household income (in 2020 dollars), 2016-2020	\$45,227
Per capita income in past 12 months (in 2020 dollars), 2016-2020	\$24,468
Persons in poverty, percent	△ 20.8%

### BUSINESSES

#### Businesses

Total employer establishments, 2020	X
Total employment, 2020	X
Total annual payroll, 2020 (\$1,000)	X
Total employment, percent change, 2019-2020	X
Total nonemployer establishments, 2019	X
All employer firms, Reference year 2017	9,478
Men-owned employer firms, Reference year 2017	4,741
Women-owned employer firms, Reference year 2017	1,731
Minority-owned employer firms, Reference year 2017	1,499
Nonminority-owned employer firms, Reference year 2017	6,433
Veteran-owned employer firms, Reference year 2017	570
Nonveteran-owned employer firms, Reference year 2017	7,355


### GEOGRAPHY


#### Geography

Population per square mile, 2020	2,251.6
Population per square mile, 2010	2,294.2
Land area in square miles, 2020	240.99
Land area in square miles, 2010	226.71
FIPS Code	0477000

[About datasets used in this table](#)

#### Value Notes

 Estimates are not comparable to other geographic levels due to methodology differences that may exist between different data sources.

Some estimates presented here come from sample data, and thus have sampling errors that may render some apparent differences between geographies statistically indistinguishable. Click the Quick Info  icon to the row in TABLE view to learn about sampling error.

The vintage year (e.g., V2021) refers to the final year of the series (2020 thru 2021). Different vintage years of estimates are not comparable.

Users should exercise caution when comparing 2016-2020 ACS 5-year estimates to other ACS estimates. For more information, please visit the [2020 5-year ACS Comparison Guidance](#) page.

#### Fact Notes

- (a) Includes persons reporting only one race
- (c) Economic Census - Puerto Rico data are not comparable to U.S. Economic Census data
- (b) Hispanics may be of any race, so also are included in applicable race categories

#### Value Flags

- Either no or too few sample observations were available to compute an estimate, or a ratio of medians cannot be calculated because one or both of the median estimates falls in the lowest or upper in open ended distribution.
- F Fewer than 25 firms
- D Suppressed to avoid disclosure of confidential information
- N Data for this geographic area cannot be displayed because the number of sample cases is too small.
- FN Footnote on this item in place of data
- X Not applicable
- S Suppressed; does not meet publication standards
- NA Not available
- Z Value greater than zero but less than half unit of measure shown

QuickFacts data are derived from: Population Estimates, American Community Survey, Census of Population and Housing, Current Population Survey, Small Area Health Insurance Estimates, Small Area Income and Estimates, State and County Housing Unit Estimates, County Business Patterns, Nonemployer Statistics, Economic Census, Survey of Business Owners, Building Permits.

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# **EXHIBIT 28**

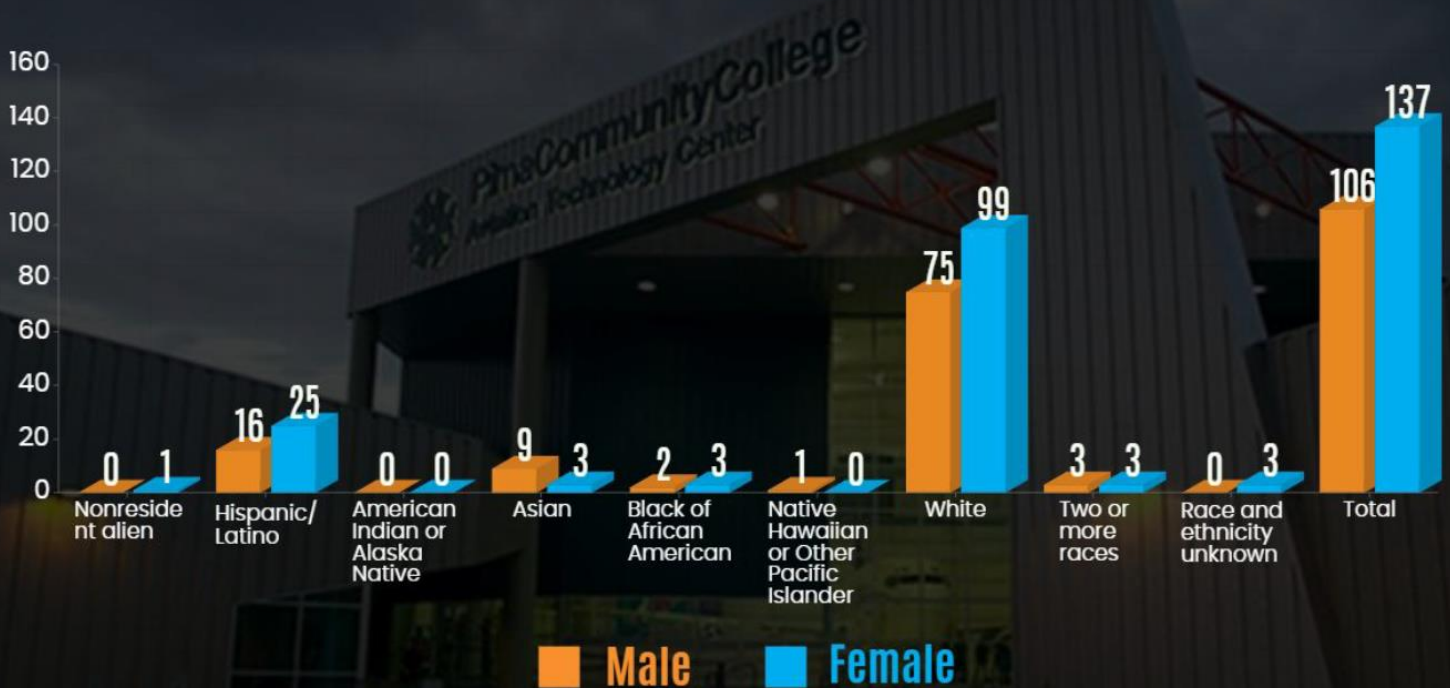
# Diversity, Equity & Inclusion: DEI Strategic Planning Update and Overview of Climate Assessment

Governing Board Study Session  
February 21, 2022



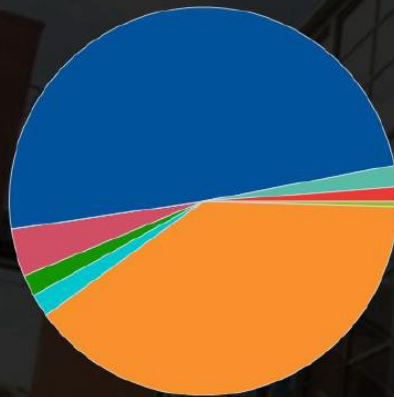
## Full Time Instructional Faculty

Gender by Ethnicity

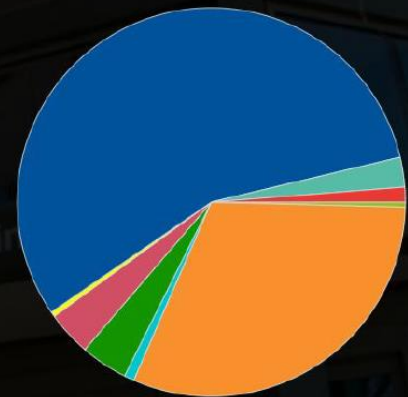


# Full Time Non-Instructional Staff

Women - 677 Total



Men - 485 Total



Nonresident alien	3	Hispanic/Latino	268
American Indian or Alaska Native	13	Asian	12
Black of African American	27	Native Hawaiian or Other Pacific Islander	0
White	334	Two or more races	12
Race and ethnicity unknown	8		

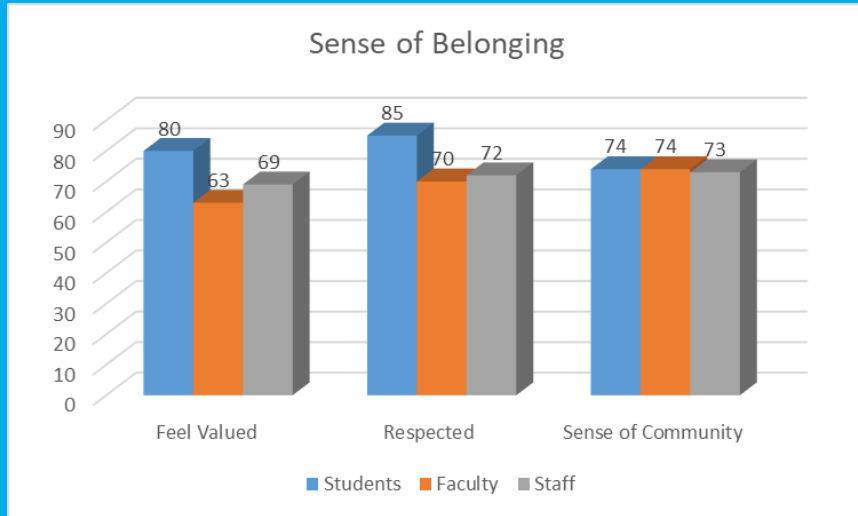
Nonresident alien	2	Hispanic/Latino	151
American Indian or Alaska Native	4	Asian	19
Black of African American	18	Native Hawaiian or Other Pacific Islander	2
White	271	Two or more races	12
Race and ethnicity unknown	6		

## Key Findings

- All audiences agree that **Pima leaders consider diversity, equity, and inclusion important**
  - Staff and administrators (67%)
  - student and faculty counterparts (77%)
- More than three-quarters of respondents somewhat or strongly agree that it is a **priority to narrow success gaps**

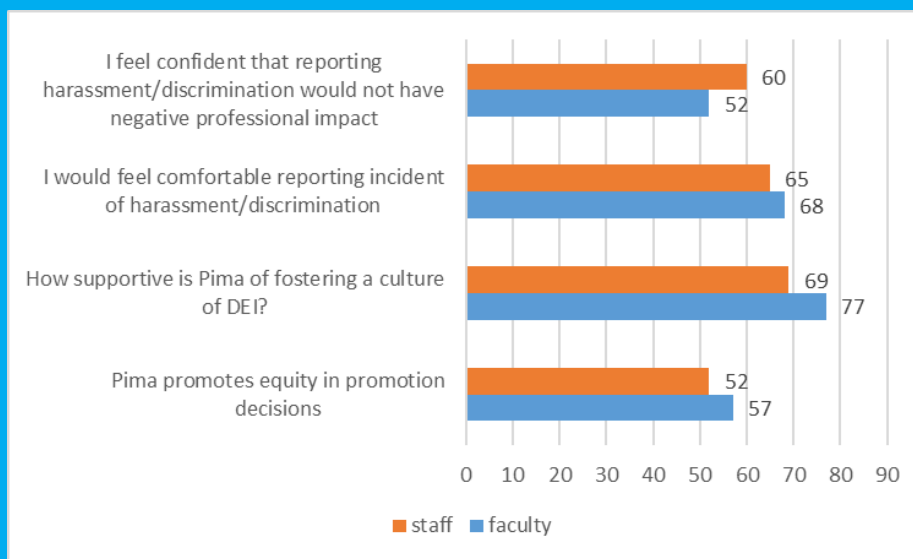


# Key Findings

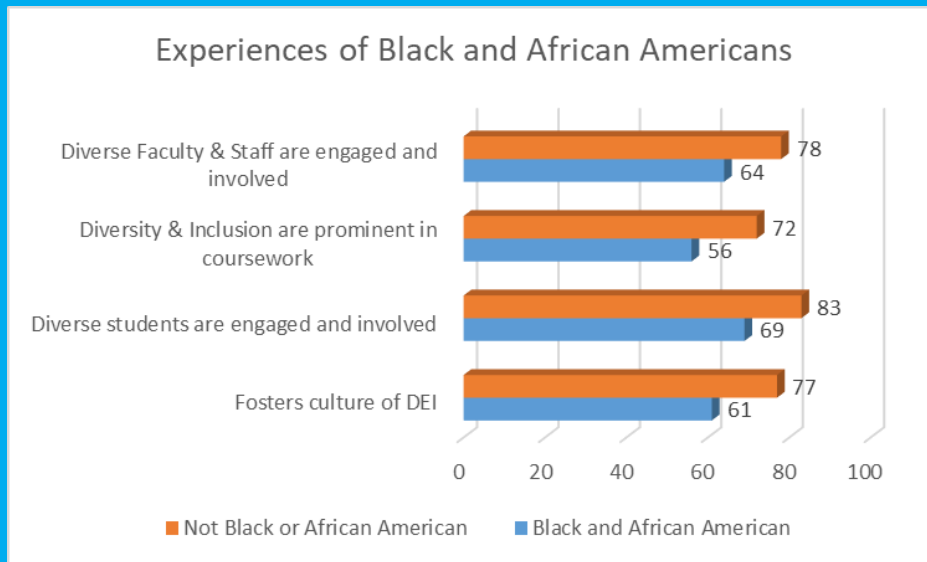


> **60%** of respondents have **not participated in an event or activity aimed at promoting DEI** at the school  
 >for **students** that percentage goes up to **80%**

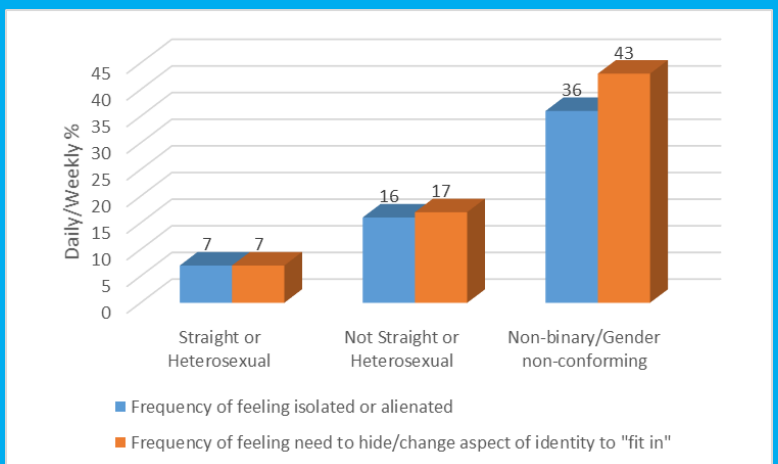
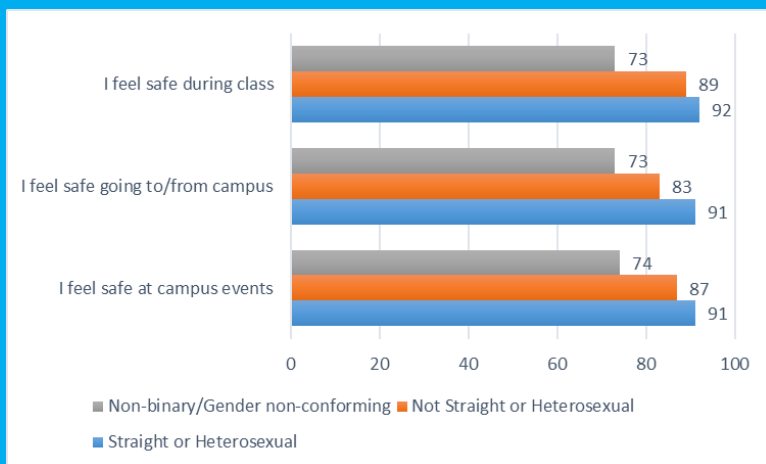
# Key Findings Faculty & Staff Perceptions



# Experiences of PCC Black and African American Community



# Experiences of PCC LGBTQIA2S+ Community



# **EXHIBIT 29**

# **REPORT OF A COMPREHENSIVE EVALUATION VISIT**

TO

PIMA COUNTY COMMUNITY COLLEGE DISTRICT  
Tucson, Arizona

September 15-17, 2014

FOR

**The Higher Learning Commission**  
A commission of the North Central Association

## **EVALUATION TEAM**

Dr. Marty L Bachman, Nursing Chair  
Front Range Community College, Fort Collins, CO 80526

Dr. Karen Hodges, Director of Remediation and Retention,  
University of Arkansas, Fayetteville, AR 72701

Ms. Jacqueline Parrill, Vice President for Institutional Planning & Human Resources Development, Central  
Ohio Technical College, Newark, OH 43055

Dr. Luis G. Pedraja (Team Chair), Provost and Vice President for Academic Affairs  
Antioch University Los Angeles, Culver City, CA 90230

Dr. James O. Smith, Vice Chancellor for Academic Affairs  
Ivy Tech Community College of Indiana, Bloomington, IN 47404

Mr. Thomas G. Sonnleitner, Vice Chancellor for Administrative Services  
University of Wisconsin-Oshkosh, Oshkosh, WI 54901-8622

Dr. Billie Ann Unger, Dean, Division of Arts  
Blue Ridge Community and Technical College, Martinsburg, WV 25401

Dr. Jacqueline A. Vietti, Former President  
Butler County Community College, El Dorado, KS 67042

Dr. Peter Wielinski, Vice President of Student Services  
Minnesota State Community and Technical College, Wadena, MN 56482-1447

office. Additionally, the new sexual harassment policy has been singled out for stand-alone training, which has been provided to the Board, training delivered to the board, senior administrators and mid-level managers and an Office of Dispute Resolution incepted. The Office of Dispute Resolution serves as the single portal for any complaints and was fully functional at the time of the accreditation visit. That office oversees a third party ethics hot line that has been put in place and has created a tracking mechanism for complaints and their status through the resolution stage, which includes closing the feedback loop with the complainant.

- Administrators, Directors, and Advanced Program managers were engaged in July 2014 to review policy and procedure updates. The campus presidents' retreat in June 2014 developed an orientation program for new campus presidents that will include a primer on college policies, regulations, standard practice guides and other policy documents.
- Policies and procedures now are in place that clearly spell out the Board's duties when receiving any complaint, including one against the Chancellor or fellow Board members. **The Office of Dispute Resolution is the sole manager of the complaint process and answers only to the College's internal auditor. The Director of the Office of Dispute Resolution is afforded the authority to call in an independent third-party auditor if deemed appropriate and necessary. These actions appear to be achieving the intended outcomes in terms of addressing previously stated HLC concerns; yet, they are relatively new.** Thus, it is key that further evidence of their intended effects over a larger time span be documented.
- PCC adopted a Chancellor Evaluation Process that clearly defines what is expected from its Chief Executive Officer. The College has provided sexual harassment training for its Board and employees, and it has revised its protocols for investigating complaints to prevent conflicts of interest that may hinder and impartial investigation. BP-1103: *Delegation of authority to the Chancellor* requires the Board to evaluate the Chancellor annually and identifies two key sources of information – those being, input for the Chancellor and input from the employees, students and community.
- The current Director of Internal Audit has been in place since April 2012. The Director is a Certified Internal Auditor. This current department is staffed with the incumbent Director, one temporary auditor, and one full-time staff auditor that is to be hired at some future point. The College's new Office of Dispute Resolution also reports to the Director of Internal Audit and is staffed with a director and full time investigator. The Auditor created a 2014/2015 Engagement Plan divided into three types:

#### Operational Audits

- Clery Act
- Fair Labor Standards Act
- Health Insurance Portability and Accountability Act

#### Special Reviews

- Veteran's Benefit Compliance Review Follow-up Audit
- Title IV Program Review Follow-up Audit
- Aviation Controls Follow-up Audit
- Contracts and Procurement Follow-up Audit

#### Other Services, Duties, and Special Projects

- Fiscal Year 2013/2014 Carry over Contract and Aviation
- Compliance Coordination Committee Participation

Disaster Recovery and Business Continuity  
HLC Self Study and Site Visit Preparation  
Governance Special Project  
Management and/or Board Requested Special Reviews, Audits  
Investigations

- Under the direction of the internal auditor, a new Office of Dispute Resolution is established for the purpose of investigating complaints from students, faculty and staff. The complaint may be submitted via a call, email or an online form via Ethics Point reporting mechanism. Upon receipt of an issue, the Office of Dispute Resolution will review the complaint, determine if an investigation is necessary, and enter the issue into a tracking mechanism, as appropriate. At the conclusion, a report will be prepared detailing the outcomes, findings, and/or recommendation for resolution. The Office of Dispute Resolutions investigated 57 complaints in 2013 and 27 cases thus far in 2014. As documented through the tracking mechanism the vast majority of cases have been resolved and, thus, considered to be addressed. The process has included closing the feedback loop with the complainant. At the time of the site visit six cases were still in the investigative process or had been deemed to be personnel matters and thus, channeled on to the appropriate supervisor to be addressed.
- Pima has undertaken changes in its purchasing processes especially as it relates to non-competitive purchases. The college categorizes its purchases into three groups that include PCC bids, Cooperative Agreements that are aligned with the State of Arizona, competitively bid contracts available through cooperative agency agreements and non-competitive purchasing requests. For the fiscal year of 2014, the college engaged in \$52.1 million in agreements. For this fiscal year 16 of these purchases were non-competitive for a total value of \$3.2 million or approximately 6% of total purchases. Of the total \$3.2 million in non-competitive contracts, \$2.5 million were for legacy systems and software to support Apple computers, its Oracle database, and similar enterprise-wide software.
- The institution now has the infrastructure in place that includes a comprehensive array of policies and procedures that provides for appropriate guidance to ensure ethical and responsible actions in the area of human resources. The Board of Governors has undertaken an aggressive approach to review and revise the existing Board by-laws and policies. Documentation of discussion and approval of revisions and additions are reflected in Board minutes and videos of respective Board meetings. The by-laws and policies are readily accessible on the College's website. That said the amended and new by-laws and policies have been implemented only recently, with some still to be reviewed, revised and approved. Thus, there will need to be an extended period of time for the intended outcomes to be assessed systematically.
- The Standard Practice Guide (SPG) for filling authorized vacant regular positions has been revised to ensure a defensible process is followed that is fair and equitable for applicants. Additionally, procedures have been revised/developed to outline the process for interim and acting appointments. The SPG does provide for direct appointments (absent a search process) in certain situations; however, safeguards have been put into place to ensure such appointments are only made in limited situations. For instance, written justification is required from the requesting department and approval by the vice chancellor for human resources and the chancellor are required. Since July 1, 2013, six direct appointments have been made, including one acting assignment and two appointments at the administrative level. A review of the justification documentation in support of these appointments indicates that these appointments are consistent with policy guidelines.
- Additionally, in an effort to increase transparency and fairness in the hiring process, the college has provided opportunities for greater participation of faculty and staff on a number of high-level search committees. A review of the composition of a number of recent search committees for several

# **EXHIBIT 30**



March 9, 2015

BY CERTIFIED MAIL

Mr. Lee D. Lambert, Chancellor  
Pima County Community College District  
4905C E. Broadway Blvd.  
Suite C-234  
Tucson, AZ 85709

Dear Chancellor Lambert:

This letter is formal notification of action concerning Pima County Community College District (“the College”) by the Higher Learning Commission Board of Trustees (“the Board”). At its meeting on February 26, 2015, the Board removed Probation from the College and placed the College on Notice because, while the College is now in compliance with the Criteria for Accreditation, it remains at risk of being out of compliance with the Criteria for Accreditation and the Core Components identified in the Board’s findings as outlined below. This action is effective as of the date the action was taken. In taking this action, the Board considered materials from the comprehensive evaluation, including the institution’s report, the team report, the IAC Hearing Committee report, the institution’s response to those reports, comments from the College community, and other materials relevant to the evaluation.

The Board required that the College submit a Notice Report no later than July 1, 2016, providing evidence that the College is no longer at risk for non-compliance with the Criteria for Accreditation and Core Components and that it has ameliorated the issues that led to the Notice sanction. The Notice Report should include the following:

- a well-defined, inclusive formal review process of the institution’s mission, including description of implementation and resulting outcomes (Core Component 1.A);
- evidence of the effectiveness of newly adopted policies, processes, and procedures, including but not limited to the effectiveness and outcomes of the newly established Governance Council and Board of Governors’ Finance, Board Human Resources Advisory Team, and Audit Committees (Core Components 2.A, 5.A, and 5.B);
- evidence of a comprehensive assessment of the human resources office, including structure and staffing and an action plan based on the assessment, including goals, metrics, and key performance indicators. The report should also include the outcomes of the recently-established Human Resources Advisory Committee and documentation of progress toward full implementation of the action plan (Core Component 2.A);
- the number and type of complaints and grievances filed with the Office of Dispute Resolution and the status of each complaint or grievance, as well as a process for assessing the effectiveness of the Office, including appropriate metrics and documented outcomes of its work (Core Component 2.A);
- evidence of a process for reviewing syllabi to ensure that all of them have proper and specific learning goals (Core Component 3.A);
- evidence of a process to coordinate and ensure consistency in review of dual learning courses and dual learning faculty training (Core Component 3.A);



- progress of the Developmental Education Redesign Committee, including evidence of its effectiveness and outcomes resulting from it in addition to the allocation of sufficient resources to developmental education to serve the student population (Core Component 3.D);
- evidence of the effectiveness of the assessment process for making changes to the teaching and learning process based on learning outcomes, including documentation of the completion of assessment cycles in all programs and of the changes made to improve learning and teaching (Core Component 4.B);
- evidence that persistence, retention, and completion metrics are used for making changes in programs, including metrics, action plans, and improvements, and documentation of the development and implementation of a strategic plan that addresses retention, persistence, and completion to support the institution's established goals (Core Component 4.C);
- evidence of stability in leadership including campus presidents and evidence of filling key vacant positions such as the Director of Human Resources position (Core Component 5.B); and
- evidence of implementation of the 2014-17 Strategic Plan including completion of the campus plan, establishment of measurable key performance indicators to assess progress toward completion and direct linkages to the budgeting process in addition to outcomes achieved to date (Core Component 5.C);

The Board required that the College host a focused evaluation no later than September 2016 focused on validating the contents of the Notice Report and on the effectiveness and long-term viability of changes at the College. At the time of the visit, the College must demonstrate that recently implemented policies, plans, functions, and structures meet Commission requirements and that they have been effective and are likely to remain successful. If progress in these areas does not continue or if other compliance issues develop at the College, the evaluation team should carefully consider a recommendation of continued Notice or Probation.

The Board will review the Notice Report and related documents at its February 2017 meeting to determine whether the institution has demonstrated that it is no longer at risk for non-compliance with the Criteria for Accreditation and Core Components and whether Notice can be removed, or if the College has not demonstrated compliance, whether accreditation should be withdrawn or other action taken;

In addition, the Board placed the College on the Standard Pathway and required that it host its next comprehensive evaluation for Reaffirmation of Accreditation in 2018-19.

The Board based its action on the following findings made with regard to the College:

The College meets the Criteria for Accreditation and the Core Components.

The College has addressed the concerns of the Commission related to Criterion Two, Core Component 2.A, "the institution operates with integrity in its financial, academic, personnel, and auxiliary functions; it establishes and follows policies and processes for fair and ethical behavior on the part of its governing board, administration, faculty, and staff," for the following reasons:

- the College has implemented necessary internal controls to provide for oversight of its financial, academic, personnel, and auxiliary functions, including the implementation of a policy to promote communication between management and employees and the establishment of Board committees on Finance and Human Resources along with a College Governance Council;
- the College has adopted new policies in many areas including policies on sexual harassment, discrimination and retaliation;
- the College Board, employees and administrators have been trained on revised policies and procedures, as appropriate for their position;

- a new Office of Dispute Resolution has been initiated under the direction of the internal auditor to investigate and act on complaints;
- the College has made appropriate improvements to its Human Resource function;
- the College has changed its purchasing processes, particularly for non-competitive purchases, and has established an infrastructure for guiding ethical and responsible action;
- the College Board has recently undertaken a review of its bylaws.

While the College has addressed the concerns of the Board, it is still at risk of being out of compliance with Core Component 2.A because many changes, including the adoption of new policies and processes, have been developed and implemented only recently so that there has not yet been sufficient time to test and assess the effect of these changes;

The College has addressed the concerns of the Commission related to Criterion Five, Core Component 5.B, “the institution’s governance and administrative structures promote effective leadership and support collaborative processes that enable the institution to fulfill its mission,” for the following reasons:

- the College has established a new framework for College governance that emphasizes collaboration, civility, transparency and respect, among other values, the College Board is working within that framework to engage collaboratively with faculty and administration;
- the College Board has established a Governance Council including student, faculty, and staff representatives to empower these constituents to play a meaningful role in governance of the College;
- the College Board has started training on appropriate policy review and formation, and the Board has formed a Finance and Audit Committee and a Human Resources Advisory Team to strengthen its oversight of the College;
- the Board has implemented effective policies on the role of faculty in academics; and
- the team found during its visit that it appeared the College had improved the climate of openness and inclusivity of individual perspectives.

While the College has addressed the concerns of the Board, it is still at risk of being out of compliance with Core Component 5.B because these approaches have been developed and implemented only recently so that there has not yet been sufficient time to test and assess the effect of these changes; rapid turnover in senior administrative positions remains; and the College has additional work to do in documenting the outcome of its links with the community;

The College has addressed the concerns of the Commission related to Criterion Five, Core Component 5.C, “the institution engages in systematic and integrated planning,” for the following reasons:

- the College has convened a conference and a committee to initiate a strategic plan; a 2014-17 Strategic Plan has been developed and includes directions and goals for the College and will include plans for each campus along with the development of key performance indicators; and
- the College’s strategic planning process engages all constituencies to a greater extent than in the past.

While the College has addressed the concerns of the Board, it is still at risk of being out of compliance with Core Component 5.C because not enough time has transpired to allow the College to fully implement the strategic plan or to demonstrate outcomes and effectiveness; the status of

planning at the campuses remains uneven; key performance indicators for the Plan have not yet been developed; and the College needs to work on continuing the engagement of the community in the planning process.

The College meets with concerns Criterion One, Core Component 1.A, “The institution’s mission is broadly understood within the institution and guides its operations,” because the College has not conducted a formal review of its mission in over a decade and should do so in alignment with the implementation of its strategic plan.

The College meets with concerns Criterion Three, Core Component 3.A, “the institution’s degree programs are appropriate to higher education,” because the team found that the College lacks consistency in maintaining program quality and learning goals.

The College meets with concerns Criterion Three, Core Component 3.C, “the institution has the faculty and staff needed for effective, high-quality programs and student services,” because the College has increasingly relied on adjunct faculty to teach its classes and should monitor its full-time to part-time faculty ratio.

The College meets with concerns Criterion Three, Core Component 3.D, “the institution provides support for student learning and effective teaching,” because the College has recently restructured developmental education and needs to ensure that these changes are supported with appropriate College staff and serve the adult student population well.

The College meets with concerns Criterion Four, Core Component 4.A, “the institution demonstrates responsibility for the quality of its educational programs,” because, although the College recognizes that its graduation, transfer and success rates are low, the College has not yet set benchmarks for academic or institutional success and has limited data on graduate employment outcomes.

The College meets with concerns Criterion Four, Core Component 4.B, “the institution demonstrates a commitment to educational achievement and improvement through ongoing assessment of student learning,” because implementing the assessment process has been slow, and sustaining progress on program review continues to challenge the institution.

The College meets with concerns Criterion Four, Core Component 4.C, “the institution demonstrates a commitment to educational improvement through ongoing attention to retention, persistence, and completion rates in its degree and certificate programs,” because critical metrics on persistence, retention, and completion were added to the institutional dashboard only recently. There is limited evidence of analysis of data collected on course completion and retention and program completion, so the College has not yet established a record of using this data to inform planning and decision making.

The College meets with concerns Criterion Five, Core Component 5.D, “the institution works systematically to improve its performance,” because the College lacks evidence that information gathered in other processes informs planning and that planning is linked strongly to budgeting, and the College has not yet had time to demonstrate that its new structures are effective in addressing these gaps.

The Board action resulted in changes to the affiliation of the College. These changes are reflected on the Institutional Status and Requirements Report. Some of the information from that document, such as the dates of the last and next comprehensive evaluation visits, will be posted to the Commission’s website.

Information about the sanction is provided to members of the public and to other constituents in several ways. Commission Policy INST.G.10.010, Management of Commission Information, anticipates that the Commission release action letters related to the removal or the imposition of a sanction to members of the public. The Commission will do so by posting this action letter on the Commission website along with the Statement of Affiliation Status and Organizational Profile. Also, the enclosed Public Disclosure Notice will be posted to the Commission's website not more than 24 hours after you receive this letter.

Commission policy INST.E.10.010, Notice, subsection Disclosure of Notice Actions, requires that an institution inform its constituencies, including Board members, administrators, faculty, staff, students, prospective students, and any other constituencies about the sanction and how to contact the Commission for further information. The policy also requires that an institution on Notice disclose this status whenever it refers to its Commission accreditation. The Commission will monitor these disclosures to ensure they are accurate and in keeping with Commission policy. I ask that you copy Dr. Solomon on emails or other communications with campus constituents regarding the sanction as required and provide her with a link to information on your website and samples of related disclosures.

In addition, Commission policy COMM.A.10.010, Commission Public Notices and Statements, requires that the Commission prepare a summary of actions to be sent to appropriate state and federal agencies and accrediting associations, and published on its website. The summary will include the Commission Board action regarding the College. The Commission will also simultaneously inform the U.S. Department of Education of the sanction by copy of this letter.

If you have questions about any of the information in this letter, please contact Dr. Solomon. On behalf of the Board of Trustees, I thank you and your associates for your cooperation.

Sincerely,



Barbara Gellman-Danley  
President

Enclosure: Public Disclosure Notice

cc: Chair of the Board of Trustees, Pima County Community College District  
Evaluation team members  
Dr. Mary Ann Martinez Sanchez, Vice Provost, Pima County Community College District  
Dr. Karen J. Solomon, Vice President for Accreditation Relations and Director, Standard Pathway,  
Higher Learning Commission  
Ms. Karen L. Solinski, Vice President for Legal and Governmental Affairs, Higher Learning  
Commission  
Mr. Herman Bounds, Accreditation and State Liaison, Office of Postsecondary Education, U.S.  
Department of Education

# **EXHIBIT 31A**

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October 7, 2020 Governing Board...

>> MR. DEMION CLINCO: Welcome to our October 7, 2020 Governing Board meeting. The meeting is being held virtually. The meeting is called to order, and the first item on our agenda is roll call.

Mr. Silvyn, if you could read the roll, please.

>> MR. JEFF SILVYN: Thank you, Mr. Chair. Mr. Clinco?

>> MR. DEMION CLINCO: Present.

>> MR. JEFF SILVYN: Dr. Hay?

>> DR. MEREDITH HAY: Present.

>> MR. JEFF SILVYN: Mr. Hanna?

>> MR. MARK HANNA: Present.

>> MR. JEFF SILVYN: Ms. Garcia?

>> MR. DEMION CLINCO: Thank you, Ms. Benjamin, for your remarks.

Next we have Mario Gonzales.

Mr. Gonzales?

>> SPEAKER: Looks like his mics are muted.

>> MR. DEMION CLINCO: Mr. Gonzales? You need to unmute yourself.

>> SPEAKER: Sorry about that. This technology is interesting.

Anyways, my name is Mario Gonzales, and I'm the board chair for C-FAIRR. I would like to address two issues: One, the disrespectful and discriminatory treatment of two minority board members. One, a Mexican-American woman and a Native American man.

It was wrong for the chancellor and the chairperson to allow it to go on as far as it has gone and not put a stop to it.

Unfortunately the chair not only condones this but is an active participant and himself is a perpetrator.

Up to now, none of you have accepted the responsibility for your disrespectful treatment of two minority board members. You have not had the decency of publicly apologizing to them.

The second issue is the reluctance of the chancellor to answer questions and provide simple written information requested by both private taxpayers and two duly elected members of the Board of Governors who happen to be his bosses.

The questions were very simple. These questions were asked in writing and verbally.

It was recently revealed that the chancellor is a chairperson of the Unmudl steering committee. Unmudl is a flagship project of SocialTech.AI, a for-profit organization, thus making Mr. Lambert a chairperson of an entity of a profit-making company that he signed and entered into a contract with representing Pima.

Unbeknownst to the board, an MOU was signed and an initial payment of \$25,000 was made to SocialTech, Inc. Some questions came

up. When was the 25,000 payment made? Was this payment made to SocialTech, Inc., or SocialTech.AI? And what account activity was it paid out of? Was this payment made before or after the MOU was signed? Did these funds come from the workforce development budget or account?

According to Dr. Ian Roark at the September 9 meeting a substantial amount of time was spent by him and very large number of college staff in assisting in the Unmudl portal. Is this not against the gift laws that all tax-funded institutions have to abide by?

On the Trane contract, the request was very simple. Conduct and provide the public with an independent investigation on the RFP process on the Trane contract from the formulating stage and the path it took up to the final awarding of the contract.

Were the other four bidders who bid against Trane notified in advance of the relationship with NC3 and Trane and that the chancellor is a board member of NC3? None of these questions have been answered.

How do you justify being a board member of profit-making organizations, SocialTech and Unmudl, and entering into contracts with the college?

>> MR. DEMION CLINCO: Your time is up, Mr. Gonzales.

>> SPEAKER: ...chancellor and chairman of the board are so opposed to answer...

>> MR. DEMION CLINCO: Thank you very much.

I just want to provide two sort of pieces of information. One, I

would refer any concerns related to Unmudl or Trane or SocialTech, we addressed this at a meeting last night and we hired outside counsel to do an independent review. Those documents have been made public,



so the public is welcome to see those as well as all of the requests for information and responses from the administration.

Secondly, I'd like to personally apologize. It's certainly not my intention to ever offend anyone. One of the things that was brought up is the way that I have used people's names. It's certainly not purposeful. If anything, it's a slip of the tongue, not because I don't respect members but rather as an indicator of our collegial working relationship.

These board meetings are held on Zoom, and they are not quite the same as our boardroom, and sitting in my dining room, it's easy to fall into a familiar rapport.

I will certainly do my best to refer to all board members with the same titles moving forward and give everyone equal opportunity to ask questions and have a thoughtful dialogue and express their responsibilities while serving on this board.

Thank you very much. With that, we conclude the public comment section. Our next item is remarks by the Governing Board members.

I don't have any remarks, and I will pass to Dr. Hay.

>> DR. MEREDITH HAY: Nothing to update anybody on. Thank you, everybody on the staff and the college and the faculty for your service and your hard work. Carry on. We're all in this together.

>> MR. DEMION CLINCO: Ms. Garcia?

>> MS. MARIA GARCIA: I have...

>> MR. DEMION CLINCO: Can you repeat that? I'm sorry.

>> MS. MARIA GARCIA: Sorry. So this is my statement. I want to welcome our community members and faculty and staff for attending this meeting.

As you know, I have been very concerned with the process that we have used to contract Trane and the development of the Unmudl portal. At the September 9 board meeting I had very specific requests to this. I have not received them yet.

I do not (indiscernible) specifically asked for a special session and the investigation did not address my concerns. I have sent documents for distribution, and it appears they were not distributed to all the individuals and internal groups that I specified.

I listened to the special board meeting, especially the closing statements that was made by Chairman Clinco.

He stated that the board had addressed these questions and the issue was closed. He is incorrect. However, for the record, I wish to inform the community...

>> MR. DEMION CLINCO: Ms. Garcia, point of order...

>> MS. MARIA GARCIA: ...the two simple questions I have made for information specifically, when was the payment made -- and I'm not going to go any further than this. I'm going to end it.

As a member of this board, I am clearly entitled to have these questions answered. In my culture we have a saying (speaking Mexican). This has to do with respect and manners, which are very

basic in my culture. This is the manner in which we are treated.

Thank you.

>> MR. DEMION CLINCO: Thank you very much, Ms. Garcia.

Mr. Gonzales? You're on mute now. You need to unmute.

Mr. Gonzales, you're still muted.

>> MR. LUIS GONZALES: Okay. Good afternoon. I just wanted to say I'd like to thank the community members and our faculty, staff for attending tonight's meeting. I have prepared a short statement also, like Ms. Garcia.

After viewing last night's special meeting, firstly I agree with Board Member Garcia's statement and question that we asked have gone unanswered as of to date. This is an issue in fact not closed but still unresolved.

For the record, all the questions we have asked and all of our

requests for documents concerning Unmudl and Trane were solely to determine if actions by the college conform with HLC criteria.

>> MR. DEMION CLINCO: Mr. Gonzales, you are now moving into a discussion about topics that are not on the agenda this evening.

>> MS. MARIA GARCIA: Okay.

>> MR. LUIS GONZALES: Again, it is clear the majority of the board has misinterpreted and continued to misinterpret our intent when it was presumed that we were requesting a financial audit, improprieties or improper use of resources. Member Garcia and I never alleged or raised any questions that could remotely be construed to suggest this.

Again, after watching last night's special meeting, it is clear that this matter continues to go unresolved.

To date, Board Member Garcia and I have not received any answers or questions instead of our duties and commitment as board members or questions. In fact, last night I did not appreciate Chairman Clinco suggesting that Member Garcia and myself were not included and did not participate in the same high level of education around HLC standards.

It is my opinion that this majority board and the chancellor is not acting with transparency but neglecting to fulfill a community, which as Board Member Garcia and I have done.

>> MR. DEMION CLINCO: You are talking about substantive issues that were on the agenda yesterday. You chose not to attend the meeting. They are not agendized for today.

Mr. Silvyn, could you provide some sort of insight on whether this is in fact stepping over...

>> MR. JEFF SILVYN: So if the board members would like to have a substantive conversation about these issues and have remaining questions, then the most appropriate way is we do have a section at the end of the agenda this evening for future agenda topics, so at

that point why don't we talk about having a future meeting at which these are specifically noted on the agenda.

>> MR. LUIS GONZALES: We welcome those meetings, but separate meetings in reference to the three items that we requested on the letter that was signed and handed over as well.

In closing, I just want to say, as Maria mentioned (speaking native language). I close.

>> MR. DEMION CLINCO: Thank you very much, Mr. Gonzales.

Mr. Hanna?

>> MR. MARK HANNA: Thank you, Chairman Clinco. So I just wanted to quickly acknowledge our former academic dean of health professions and critical care, Dr. Joe Gaw, who recently left the college after approximately 10 years of service for another position.

I met Joe early on on my tenure on the board, and he's one of those people when you meet, they explain to you their vision of the future, and he did much to make that future come true at Pima and to make our health science education programs respected and probably the most advanced in our community.

Hundreds of new healthcare professionals enter the workforce in our community well prepared and ready to serve their time, well prepared to serve during his time as leader, and we're grateful for his service. I just wanted to acknowledge Dr. Gaw.

Also, I got a chance to visit the Aviation Technology Center last week and to take a look at COVID-19 protocols and get an update on the expansion of the facility.

I was impressed on all fronts, to be honest. I wanted to give a big thank you to program director Jason Bowersock, faculty, one of whom I watched teaching a class about aircraft engines with a GoPro camera attached to his head, and virtually explaining to his students who were online how an airplane engine was put together. I can't

# **EXHIBIT 31B**

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January 19, 2021 Study Session....

>> MR. DEMION CLINCO: Let's go ahead and get started.

Good afternoon, and welcome to the January 19, 2021 Governing Board study session. I'd like to call this meeting to order.

Our first item of business is an action item, 2.1, intergovernmental agreement with Pima County related to the administration of COVID-19 vaccinations.

Mr. Silvyn, could you read the recommendation?

>> MR. JEFF SILVYN: Thank you, Mr. Chair.

The chancellor recommends that the Governing Board authorize the chancellor or designee to execute an intergovernmental agreement with

Now, on the right side of the screen, this is just a representation of typically what happens in the submission process for the board report and to make sure our various customers keep in mind the due dates, when we have to get the report in and ready for presentation and to make sure that they keep that in mind as a part of the timing for their solicitation and what they would like to have awarded with regards to the contract for the goods and services that are in question.

And then also we have here, as listed below, the timing with regard to when it's due and what should happen in the event that the department does not have, we don't have all the sort of ducks in a row necessary to present this to the board and the fact that then it needs to be considered for the next round or the next scheduled board meeting to be considered.

With that being said, I will just open it up for questions.

>> MR. DEMION CLINCO: Yes?

>> MS. MARIA GARCIA: I'm so glad you make this presentation.

Let me -- I do have some questions. One of them is I'd just like to know what the protocol for vendors and college employees is, when a vendor -- when a vendor approaches the college with an interest in doing business, what is the protocol?

>> TERRY ROBINSON: Well, generally speaking, it depends on of course what it is that the vendor is offering, what it is that they are asking, asking to provide the cost of what those services are and

that relationship to the thresholds for purchasing.

But just generally speaking, we want to be fair, open, transparent. Generally what we do in our department is we will ask those vendors, depending on what it is that they are offering, to speak with the various departments about those goods or services that they are interested in offering in order for the vendor to make a direct connection with various departments.

So, for example, with facilities, that's one of the more common areas that we have vendors who are interested in doing business with the college. If they are interested in providing a service, for example, we might, after initially screening and speaking with that vendor, we will then put them in touch with an appropriate individual in facilities to have them speak with them about those products and services that they are interested in offering.

Another thing that we do is with those vendors who may be reaching out to us with interest in doing business with the college, we will let them know about current contracts that we have with other vendors and see if there are like products or services that they are interested in offering and try to get an understanding of what exactly they are offering and what kind of threshold or category they may fall into with regard to what they are offering.

So, for example, if it's less than \$10,000, they are simply calling because they are interested in providing a contract good or service that might cost, say, a thousand dollars for the purchase by a particular department, and the department might have an interest in

actually making that purchase, the department can certainly do business with those individuals, and the only thing that would be primarily required in their wanting to work with them, it would simply be making sure that the pricing is fair and reasonable as to what it is that they are offering to purchase.

However, if the contract that the vendor is offering has a total contract value, let's say, that exceeds \$10,000, and is less than \$250,000, as the previous slide that I showed before, have our threshold amounts, if it's between 10 and 250, now we have to make sure that we are utilizing a competitive process. It could be an informal process, but it must be competitive.

And that is in accordance with not only our general AP but also



# **EXHIBIT 31C**

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April 19, 2021 Study Session...

>> MR. DEMION CLINCO: Good afternoon, and welcome to the April 19, 2021 Governing Board study session. I'd like to call the meeting to order.

Before we start our first item, there is some background information I think that it would be helpful to hear from our counsel, and so to do that, I would like to move that we move into an executive session.

Is there a second?

>> MS. CATHERINE RIPLEY: Second.

>> MR. DEMION CLINCO: Is there any discussion? Okay. Hearing none, all in favor, signify by saying aye.

the team.

We have also provided, the college did a bunch of energy audits years ago, and I think they ended in 2013 and we brought a high-level company in town who built two of the largest central plants in the United States, and they did our energy assessment and made recommendations.

So we've also got them taking a look at it and also our solar provider. One of the things that everybody has to understand is that when you go with the power companies, and Jeff will know this, you

have to, you negotiate your rates. The same with solar. You negotiate your rates. So you have to make sure that you're not going to do anything that in a sense could affect a rate that you have already negotiated with your utilities.

So that's the main emphasis of what we are looking at is because we want to make sure we are not going to do something that in turn affects a rate or actually, in a sense, makes it to where we are really not saving any money on another side.

So we are bound to do this, and as you guys know, all of our projects and everything that we do within this college, the minute we touch a building it has to go forward to the state fire marshal's office for approval, which in a sense would be submitted through me as the chief facilities officer for the district.

So that's standard. That's no different to me than any of my other counterparts in the state. They'd have to do the same thing.

>> MS. MARIA GARCIA: Well, thank you.

>> MR. DEMION CLINCO: Thank you. Mr. Gonzales?

>> MR. LUIS GONZALES: I just want to mention, make a comment, I think it was an outstanding presentation.

One of the things that was mentioned by Mr. Wilson, I believe, that we're probably going to get more students from out-of-state in reference to what we are going to be providing to our community.

I do go back into really let's focus on our population within our districts here. I think there is a lot of (indiscernible) locally. I think that should be one of the emphasis we saw by a report that

Mr. Lambert gave out to us, too.

I know that Mr. Bea went over the finances, and one of the things that he mentioned that we are doing a guaranteed savings, and I hope that we are, that we will be doing those guaranteed savings as well too. He did mention right after that, he mentioned that he had his team put into, that was part of the RFP and development of that, so which is good, which is good.

It comes back around in reference to I have a statement that I want to do and will do. In my statement, I must inform my fellow board members that myself and Ms. Garcia and I have firsthand information that indicates that Mr. Knutson has stated that he participated in the development of the energy management program, and I have reviewed Ms. Segal's second report in which she concludes that if Mr. Knutson participated in writing the energy management program RFP it would be a violation of the procurement policy.

Because of Ms. Segal's report, I believe that I have an obligation to report this evidence to the full board. I would like to share this in an executive session soon, very soon. That's my statement.

>> MR. DEMION CLINCO: Thank you very much, Mr. Gonzales.

Are there any other questions from anyone else? We have one other item this evening.

>> MS. MARIA GARCIA: I also have a statement. I'm sorry. In the past, members have failed to inform the board of important information regarding possible violations of statute or policy.

So I guess I want to confirm that Mr. Gonzales and I want, that I have gotten from the same source the same information, and just wanted to share it with our staff.

Furthermore, I would like to ask that prior to board approval, the Trane proposal be fully evaluated by facilities, staff, and that the evaluation be presented to the board in its entirety.

That's it.

>> MR. DEMION CLINCO: Okay. Thank you very much, Ms. Garcia.

Again, if board members have concerns about any legality, please contact Mr. Silvyn directly and the chancellor directly about your concerns. That is the stated policy.

That is really the first and best way. You brought it to our attention now, and I'm sure Mr. Silvyn will be reaching out to ask for additional information.

Mr. Knutson, I have a question. I can't imagine we are the first government or educational entity to partner with your company to undergo a process like this and then the resulting outcome looks at different mechanisms to finance through savings and these sort of guarantees.

Could you just tell us about some of the other partnerships that you have been involved with, particularly in the education space, and maybe highlight one or two in the government space? Then we have to move on because we have this other item to discuss.

>> JIM KNUTSON: Well, I'd like to mention that, yes, as an organization we have literally done billions of dollars over the last

40 years of these types of programs. Federal government is a huge proponent of energy-performance contracting. Ms. Ripley, you're probably aware of some of the opportunities that Trane has been involved in with the Army, Navy, and the military forces.

We have large bases across Japan and other locations in China and Korea that are currently underway in the 2 to \$400 million that are

# **EXHIBIT 32**

2022

# America's Best Employers By State



Illustration by James Marshall for Forbes

EDITED BY **YOLANDA BARUCH**

AUGUST 24, 2022, 10:00 AM

Two years into an ongoing global pandemic that's forever transformed the workplace, what makes a good employer?



Whether working remotely or from the office, Americans'

priorities have changed. Employers have had to motivate talent, combat burnout and ensure the well-being and safety of their workers, while pursuing profits amid a sensitive political landscape that spurred new levels of corporate activism – not to mention a growing divide in what people want from institutions and companies.

It was against this backdrop that Forbes partnered with market research company Statista to compile our fourth annual list of America's Best Employers By State. The list is divided into 51 rankings—one for each of the 50 states, plus the District of Columbia—and was compiled by surveying 70,000 Americans working for businesses with at least 500 employees. Surveys were conducted anonymously, allowing participants to freely share their opinions. The final list ranks the 1,382 employers that received the most recommendations.

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<u>RATING</u>	<u>NAME</u>	<u>EMPLOYEES</u>	<u>HEADQUARTERS</u>	<u>CEO</u>	<u>INDUSTRY</u>	<u>YEAR FOUNDED</u>
1	Mayo Clinic	73,000	Rochester, Minnesota, United States	Gianrico Farrugia	Healthcare & Social	1889



2	Southwest Airlines	55,000	Dallas, Texas, United States	Robert E. Jordan	Transportation and Logistics	1967
3	Grand Canyon University		Phoenix, Arizona, United States	Brian Mueller	Education	1949
4	PayPal	13,100	San Jose, California, United States	Dan Schulman	Banking and Financial Services	1998
5	Pima Community College	1,162	Tucson, Arizona, United States	Lee D. Lambert	Education	1969
6	United Services Automobile Association (USAA)	37,000	San Antonio, Texas, United States	Wayne Peacock	Insurance	1922
7	HonorHealth	12,800	Scottsdale, Arizona, United States	Todd LaPorte	Healthcare & Social	1962
8	Costco Wholesale	192,000	Issaquah, Washington, United States	W. Craig Jelinek	Retail and Wholesale	1983
9	WL Gore & Associates	11,500	Newark, Delaware, United States	Bret Snyder	Engineering, Manufacturing	1958
10	McKesson	32,000	Irving, Texas, United States	Brian S. Tyler	Health Care Equipment & Services	1833
11	American Express	22,000	New York, New York, United States	Stephen J. Squeri	Banking and Financial Services	1850
12	Marriott International	97,000	Bethesda, Maryland, United States	Anthony Capuano	Travel & Leisure	1927
13	Intuit	13,500	Mountain View, California, United States	Sasan Goodarzi	IT, Internet, Software & Services	1983
14	Arizona Public Service (APS)	6,000	Phoenix, Arizona, United States	Jeff Guldner	Utilities	1885
15	The Home Depot	30,000	Atlanta, Georgia, United States	Edward P. Decker	Retail and Wholesale	1978

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16	IBM	3,900	Armonk, New York, United States	Arvind Krishna	IT, Internet, Software & Services	1911
17	United States Department of Defense	2,910,000	Arlington County, Virginia, United States	Lloyd J. Austin III	Government Services	1947
18	Carvana	21,000	Tempe, Arizona, United States	Ernie Garcia, III	Retail and Wholesale	2012
19	GoDaddy	9,000	Scottsdale, Arizona, United States	Aman Bhutani	IT, Internet, Software & Services	1997
20	Intel	121,100	Santa Clara, California, United States	Patrick Gelsinger	Semiconductors, Electronics, Electrical Engineering, Technology Hardware & Equipment	1968
21	Apple	154,000	Cupertino, California, United States	Tim Cook	Semiconductors, Electronics, Electrical Engineering, Technology Hardware & Equipment	1976

22	General Dynamics	89,775	Reston, Virginia, United States	Phebe N. Novakovic	Aerospace & Defense	1952
23	Gila River Gaming Enterprises	1,000	Chandler, Arizona, United States	Kenneth Manuel	Travel & Leisure	1994
24	Cox Enterprises	50,000	Atlanta, Georgia, United States	Alex Taylor	Telecommunications Services, Cable Supplier	1898
25	Northrop Grumman	90,000	Falls Church, Virginia, United States	Kathy Warden	Aerospace & Defense	1939
26	Hyatt Hotels	44,000	Chicago, Illinois, United States	Mark S. Hoplemazian	Travel & Leisure	1957
27	Discover Financial Services	16,700	Riverwoods, Illinois, United States	Roger C. Hochschild	Banking and Financial Services	1985
28	Raytheon Technologies	174,000	Waltham, Massachusetts, United States	Gregory J. Hayes	Aerospace & Defense	1922
29	Charles Schwab	33,000	San Francisco, California, United States	Walter W. Bettinger II	Banking and Financial Services	1971
30	Arizona State University		Tempe, Arizona, United States	Michael M. Crow	Education	1885
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31	JPMorgan Chase	270,000	New York, New York, United States	Jamie Dimon	Banking and Financial Services	2000
32	Best Western International	1,000	Phoenix, Arizona, United States	David Kong	Travel & Leisure	1946
33	Paradise Valley Unified District	3,153	Phoenix, Arizona, United States	Troy Bales	Education	1913
34	Nike	73,300	Beaverton, Oregon, United States	John J. Donahoe II	Clothing, Shoes, Sports Equipment	1964
35	Boeing	1,500	Chicago, Illinois, United States	David L. Calhoun	Aerospace & Defense	1916
36	University of Arizona	15,567	Tucson, Arizona, United States	Robert Robbins	Education	1885
37	Starbucks	245,000	Seattle, Washington, United States	Howard Schultz	Restaurants	1971
38	Cigna	65,593	Bloomfield, Connecticut, United States	David Cordani	Insurance	1792
39	Petsmart	48,000	Phoenix, Arizona, United States	J.K. Symancyk	Retail and Wholesale	1986
40	UnitedHealth Group	340,000	Minnetonka, Minnesota, United States	Andrew Witty	Insurance	1977
41	American Airlines Group	123,400	Fort Worth, Texas, United States	Robert Isom	Transportation and Logistics	1930
42	Verizon Communications	105,376	New York, New York, United States	Hans Vestberg	Telecommunications Services, Cable Supplier	1983

43	City of Tucson	5,900	Tucson, Arizona, United States	Regina Romero	Government Services	1877
44	Asurion	19,000	Nashville, Tennessee, United States	Tony Detter	IT, Internet, Software & Services	1994
45	Hilton	142,000	McLean, Virginia, United States	Christopher J. Nassetta	Travel & Leisure	1919

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46	U.S. Department of Veterans Affairs	424,353	Washington, District of Columbia, United States	Denis J. McDonough	Government Services	1930
47	City of Mesa		Mesa, Arizona, United States	John Giles	Government Services	1878
48	Nordstrom	60,000	Seattle, Washington, United States	Erik B. Nordstrom	Retail and Wholesale	1901
49	Deer Valley Unified School District	3,894	Phoenix, Arizona, United States	Curits Finch	Education	1934
50	Insight Enterprises	11,624	Tempe, Arizona, United States	Joyce Mullen	IT, Internet, Software & Services	1988

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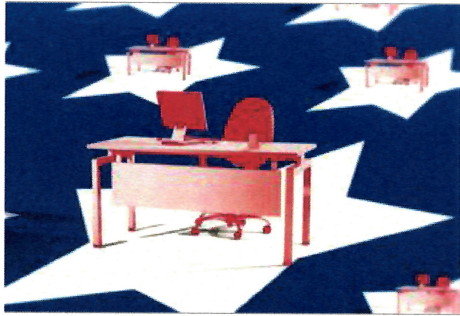
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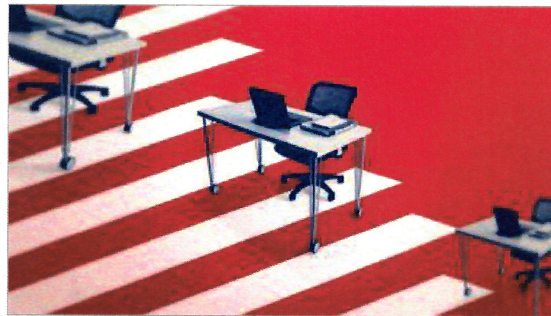
# Meet America's Best Employers By State 2022

BY YOLANDA BARUCH

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