

July 28, 2023

VIA ELECTRONIC MAIL

Dr. Dolores Duran-Cerda
Chancellor
Pima County Community College District
4905C E. Broadway Blvd.
Tucson, AZ 85709-1005

Dear Chancellor Duran-Cerda:

This letter is to inform you that the Higher Learning Commission (HLC or “the Commission”) recently received a complaint regarding Pima County Community College District (“the institution”). In accordance with HLC Policy COMM.A.10.030, Complaints and Other Information Regarding Member Institutions, HLC initially reviewed the complaint to determine whether it suggested potential substantive non-compliance with the institution’s ability to meet the Criteria for Accreditation or other HLC requirements.

Based on that initial review, HLC concluded that the complaint and related materials raises potential concerns regarding the institution's substantive compliance with the following HLC requirement:

- Criterion Two, Core Component 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.”

Based on these potential concerns, the institution is required to provide HLC a formal response to the complaint. This response should provide narrative and appropriate evidence to demonstrate that the institution continues to meet the requirement noted above in light of the complaint.

The institution should prepare and submit its response within 30 days of the date of this letter, or no later than **August 27, 2023**. The response should be no more than 15 pages of narrative and contain appropriate supporting evidence. The response, including any supporting evidence, should be submitted electronically as a single PDF file that does not contain links to external websites or documents to <https://spaces.hightail.com/uplink/HLC-LRA>.

The Commission will review the information within 30 days of receipt and will notify the institution of its determination and any next steps, if applicable, upon conclusion of the review.

Chancellor Duran-Cerda, July 28, 2023 2

Thank you for your cooperation. If you have any questions regarding this letter, please contact your HLC Staff Liaison, Dr. Linnea Stenson.

Sincerely,



Robert Rucker
Associate General Counsel

Enc: Complaint

CC: Wendy Weeks, Assistant Vice Chancellor for Curriculum and Quality Improvement,
Pima County Community College District
Linnea A. Stenson, Vice President of Accreditation Relations, Higher Learning
Commission

Subject: Complaint Submitted

Date: Wednesday, July 5, 2023 at 6:02:26 PM Central Daylight Time

From: Mark Hanna <mark@markhanna.com>

To: Complaints <complaints@hlcommission.org>

CAUTION: This email originated from outside of the organization.

Contact Information

First name: Mark

Last name: Hanna

Email address: mark@markhanna.com

Phone number: 5209063718

Street address: 4420 N Camino De Carrillo

City: Tucson

State: Arizona

ZIP code: 85750

Complainant type: Other Former Pima Community College Governing Board Member

Current or former, if applicable:

Date of last attendance/employment, if applicable:

Program of study, if applicable:

Degree program level, if applicable:

Referred by: Other Past Higher Learning Commission accreditation experience

Complaint Details

Institution: 1012 - Pima County Community College District - AZ

Date that matter of complaint occurred: 01/11/2023

Circumstances leading to complaint:

Attached please find a formal "Letter of Concern" addressed to the Higher Learning Commission, Chicago, IL, signed by eight former Pima Community College Governing Board members and chairs regarding Interim Monitoring, Board Effectiveness, and compliance with HLC Criteria for Accreditation. This letter was jointly composed and researched (including attachments) by the undersigned and expresses concerns about the actions of three current Governing Board members, as well as the enforcement of published policies by the College's accreditation agency, the Higher Learning Commission (HLC).

We ask that the HLC review the issues and violations of the current Pima Community College Governing Board as well as actions and results of the most recent HLC focused visit. An expected outcome would be one that ensures the PCC Governing Board operates in a manner that is consistent with all HLC criteria and that the HLC review its own procedures in holding not only PCC, but all institutions in your area of responsibility accountable for the good of their college, their community, and most importantly, their students. Thank you for your attention to this matter.

Attempted to file a complaint with the institution: No

Description, if yes:

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.

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.

June 30, 2023

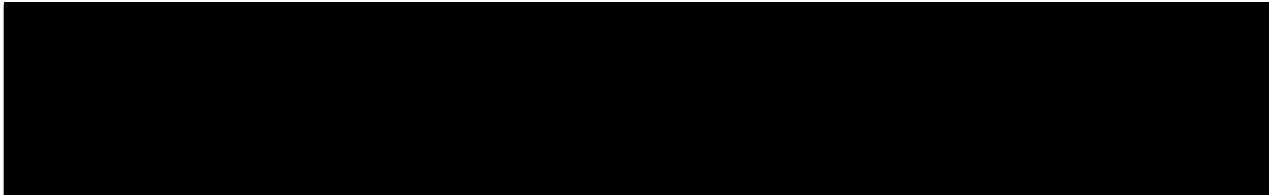
Via Email & By Certified Mail, Return Receipt Requested

Dr. Jo Alice Blondin, Chair
Higher Learning Commission Board
230 South LaSalle Street, Suite 7-500
Chicago, Illinois 60604-1411
(800) 621-7440 x 102

Re: Pima Community College Interim Monitoring, Board Effectiveness, and Compliance with HLC Criteria for Accreditation

Dear Chair Jo Alice Blondin and members of the HLC Board,

As eight former members and board chairs of the Pima County Community College District (PCC), we are writing to express our profound concerns regarding two critical issues that have deeply affected the institution.



Secondly, we are very concerned by the current PCC Governing Board's non-compliance with HLC Criteria for Accreditation 2.C. These issues are intrinsically linked, and we firmly believe that it is imperative for the HLC board to conduct a thorough internal review and take decisive external action to change practice and policy to prevent such occurrences from happening at other institutions. It is crucial that PCC meets the required Criteria for Accreditation for students in Pima County and for the institution to effectively function.

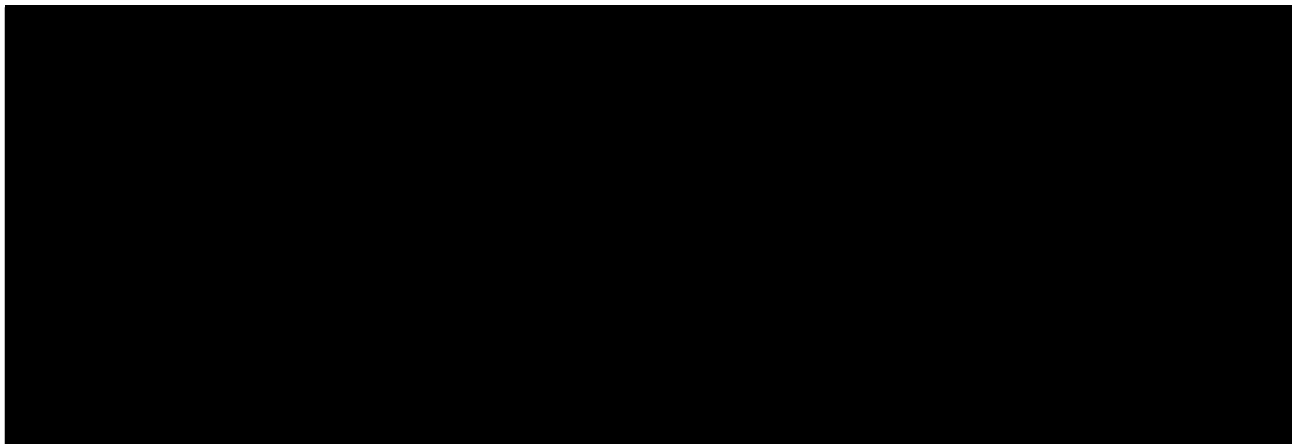
PCC has faced the consequences of being placed on academic probation by the HLC on two occasions, in 1989 and 2013. These sanctions received extensive coverage in the local media, tarnishing the college's reputation. In response to the most recent probation, the five-member board hired Lee Lambert as the District chancellor in 2013 with the mandate to assess institutional effectiveness, reform operations, and ensure compliance with HLC Criteria. As you are aware, the college was eventually removed from sanctions in 2017.

However, certain factions within the community, including some college employees and a special interest group, have weaponized the HLC complaint process for political gain. Exploiting this process to amplify their grievances, they have positioned the HLC as an adjudicator of issues, when the college fails to comply with their requests and demands. They actively

supported the election of current board members, Maria Garcia and Luis Gonzales, in 2018 and Theresa Riel in 2022. Regrettably, Garcia and Gonzales, have shown a brazen disregard for HLC Criteria, opposed the restorative efforts led by Lee Lambert to rebuild institutional integrity and accountability, and have been found to be in violation of Arizona State Law by the Arizona Attorney General (Attachment 1, 2).

Despite written and public warnings by the Attorney General, Garcia and Gonzales appear to have continued repeated violations of the law. (Attachment 3) The actions of these two members have been so extreme that the Pima County Board of Supervisors passed a rare unanimous resolution stating: "The current situation at Pima Community College constitutes a crisis that, left unresolved, will erode public trust in the institution and lead to irrevocable harm to the College and therefore the community" and requested the Attorney General to take action. (Attachment 4)

The two board members have proven to be unethical, and unprofessional and have continued to flagrantly violate institutional policy and HLC criteria to such an extent that they were embroiled and deposed in an employment lawsuit brought forth by a former college employee. Their actions undermined Chancellor Lambert's authority and the democratic decisions of the PCC board. (Attachment 5)



Although two new PCC board members have been elected and one appointed to fill a vacancy, it is disheartening to note that one of the newly elected members, Theresa Riel, a former math faculty member, has aligned herself completely with, and is unduly influenced by, the employee faculty group that supported her election. This employee group, led by PCC math faculty, Mikayla Hays, filed false, inflammatory, and widely published complaints with the HLC in the lead-up to the election, and at the same time was intimately involved in Riel's campaign. These actions were detailed in an October 31, 2022, letter. (Attachment 8).

Within just six months of assuming the role of Chair, and despite College attempts at training, education, and guidance, Ms. Riel, has demonstrated unwavering loyalty to the employee faculty group that aided in her election and has persistently breached HLC Criteria 2.C. Numerous examples of these violations are outlined below. Ms. Riel's behavior, combined with the continuing unlawful conduct of Ms. Garcia and Mr. Gonzales, has resulted in the college's

total and gross non-compliance with HLC Criteria. Based on external college communication and public records it appears that Ms. Riel has:

1. refused best practices and professional development illustrated by the board retreat on June 1st and 2nd with no professional facilitator and no publicly released documents.
2. held meetings with community leaders, including two signatories on this letter, notifying them that Arizona State Statutes empower her to manage all aspects of college and thus is not bound by HLC criteria 2.C.5;
3. begun micromanaging the operations of the college, continually circumventing the chancellor's authority by directing staff;
4. refused to hold board members accountable for their inappropriate behavior, violations of college policy and Arizona State law;
5. violated Arizona State Open Meeting law by holding a private un-noticed meeting with Ms. Garcia, Mr. Gonzales, and Mikayla Hays on May 22, 2023;
6. has begun revisiting and reversing approved and funded projects, policies, and recent deliberated decisions of the board.
7. mandated that board members not meet with the chancellor without her present;
8. has been unduly influenced by outside groups specifically but not limited to the Pima Community College Education Association (PCCEA) including advancing language produced by PCCEA under her signature to reverse and modify college policies that PCCEA sees as unfavorable to their interests; and the disclosure of executive privilege information regarding hiring an acting/interim chancellor to members of the public.

The governing board, which should be the autonomous decision-making body acting in the best interest of the institution, is no longer functioning independently and has failed to adhere to board policies, thereby undermining the institution's integrity.

Moreover, Chancellor Lambert, unable to effectively lead the organization because of inappropriate Board interference, began interviewing at other colleges and in May 2023 accepted a position in California. Consequently, senior leadership positions across the organization are being vacated, further exacerbating the crisis.

It is with great sadness that we find ourselves compelled to compile and send this letter. [REDACTED]

[REDACTED] Because the College is on Interim Monitoring, with a focus on Board Effectiveness, and Compliance with HLC Criteria for Accreditation we implore your board to take urgent and immediate action.

[REDACTED]



Catheryn Ripley, CDR USN (Ret)
Pima Community College Governing Board, 2020 - 2022



Demion Clinco
Pima Community College Governing Board, 2017 - 2022



Meredith Hay, PhD
Pima Community College Governing Board, 2018 - 2022



Mark Hanna
Pima Community College Governing Board, 2016 - 2021



Sylvia Lee, PhD
Pima Community College Governing Board, 2012 - 2018



Martha Durkin
Pima Community College Governing Board, 2017 - 2018



Marty Cortez
Pima Community College Governing Board, 1994-2015



Scott Stewart
Pima Community College Governing Board, 1999 - 2016

CC:

Hon. Miguel Cardona, United States Secretary of Education

Hon. Katie Hobbs, Governor of Arizona

Hon. Tom Horne, Arizona Superintendent of Public Instruction

Hon. Kris Mayes, Arizona Attorney General

Hon. Mark Kelly, United States Senator

Hon. Kyrsten Sinema, United States Senator

Hon. Bernie Sanders, United States Senator, Chairman, Senate Committee on Health, Education, Labor and Pensions

Hon. Raul M Grijalva, Member, United States Representative

Hon. Juan Ciscomani, Member, United States Representative

Hon. Virginia Foxx, Chairman, Committee on Education and the Workforce, US House of Representatives.

Hon. Burgess Owens, Chairman, Subcommittee Higher Education, and Workforce Development Committee, US House of Representatives.

Hon. Kevin Brady, Chairman, Committee on Ways and Means, US House of Representatives.

Hon. Ken Bennett, AZ State Senator, Chairman, Senate Committee on Education

Hon. Beverly Pingerelli, AZ State Representative, Chairman House Committee on Education

Hon. Dustin Williams, Pima County School Superintendent

Barbara Gellman-Danley, President, Higher Learning Commission

Richard Dunsworth, J.D., Vice Chair, Higher Learning Commission

Donald M. Elliman, Jr., Treasurer, Higher Learning Commission

Attachment 1



OFFICE OF THE ARIZONA ATTORNEY GENERAL

MARK BRNOVICH
ATTORNEY GENERAL

SOLICITOR GENERAL'S OFFICE
GOVERNMENT ACCOUNTABILITY UNIT

KATHERINE JESSEN
ASSISTANT ATTORNEY GENERAL
PHONE No.: (602) 542-3333
OMLETINFO@AZAG.GOV

April 14, 2022

Via Email & By Certified Mail, Return Receipt Requested

Pima County Community College District
c/o Susan Segal, District Counsel
Gust Rosenfeld
One E. Washington, Suite 1600
Phoenix, AZ 85004
spsegal@gustlaw.com

Re: Open Meeting Law and the Pima County Community College District

Board Members and Ms. Segal:

As you know, the Office of the Attorney General (the "Office") received a self-reported complaint alleging that the Pima County Community College District Governing Board (the "Board") violated Arizona's Open Meeting Law. The Office has concluded its review of the Board's self-reported complaint, and the Board's responses to the Office's request for additional information. As discussed below, the Office has determined Board Members Maria Garcia and Luis Gonzales violated the Open Meeting Law for two reasons. First, Ms. Garcia and Mr. Gonzales sent multiple email communications (collectively the "Email Communications")¹ that were addressed to a quorum of the Board and proposed legal action. *See* Board's July 29, 2021 Response ("Board's Response") at 1-4. Second, Ms. Garcia and Mr. Gonzales individually and collectively violated the Open Meeting Law by disclosing confidential executive session information to a third party that was not authorized to receive such information pursuant to A.R.S. § 38-431.03(B), (F). This disclosure of executive session information occurred in two separate instances: first, in the September 14, 2020 memorandum discussing "Diversity, inclusiveness and social justice,"² and second, the June 21, 2021 memorandum discussing the termination of a District employee.³ Each of these instances disclosing executive session information constitutes an Open Meeting Law violation.

¹ These emails are included in the July 29, 2021 Board's Response at 2-4 and the Board's April 6, 2022 Supplemental Response.

² *See* Board's Complaint at 3-4.

³ *See* Board's April 6, 2022 Supplemental Response Attachment 4 Metadata Screenshot.

The facts recited in this letter serve as a basis for this conclusion, but are not administrative findings of fact and are not made for purposes other than those set forth in A.R.S. § 38-431 *et seq.*

Violation for Email Communications Sent to A Quorum of the Board

The Board's outside counsel filed a self-reported complaint that listed multiple email communications sent by Board Members Garcia and Gonzales that (1) were sent to a quorum of the Board and (2) expressed their opinions on matters that would foreseeably come before the Board for discussion and final legal action. Specifically, the Board's Complaint identified 8 email communications that were sent to a quorum of the Board that violated the Open Meeting Law. *See* Board's Response at 1-4; Board's Supplemental Response Attachment Titled December 6, 2021 Letter to General Counsel.

Under the Open Meeting Law, a "meeting" includes "[a] one-way electronic communication by one member of a public body that is sent to a quorum of the members of a public body and that proposes legal action;" it also includes an "exchange of electronic communications among a quorum of the members of a public body that involves a discussion, deliberation or the taking of legal action by the public body concerning a matter likely to come before the public body for action." A.R.S. § 38-431(4)(b). An email communication sent to a quorum of the public body that merely proposes that a matter be placed on a future agenda, *without more*, does not violate the OML. *See* Ariz. Att'y Gen Op. I05-004 at 9. However, where members of a public body "are parties to an exchange of e-mail communication that involve discussion, deliberations or taking legal action by a quorum of the public body concerning a matter that may foreseeably come before the public body for action, the communications constitute a meeting through technological devices under the OML." Ariz. Att'y Gen Op. I05-004 at 2; *see also* A.R.S. § 38-431(4).

Here, the Email Communications went beyond simply asking for a matter to be placed on a future Board agenda. Instead, the Email Communications expressed Ms. Garcia and Mr. Gonzales' opinions and interpretations on matters that would foreseeably come before the Board for future discussion or legal action. *See, e.g.*, June 21, 2021 Memorandum to General Counsel Jeffrey Silvyn (discussing that the termination of a District employee was improper and stating that they disagree with the Chancellor's decision).⁴ These Email Communications essentially invited the Board to engage in a non-public discussion of a matter that could foreseeably come before the Board for future legal action, and expressed far more than simply asking the matter to be put on an agenda for discussion at a future meeting. Ultimately, the contents of the Email Communications should have been properly noticed and added to a meeting agenda so that the Board could address these matters in an open, public meeting rather than through emails to a quorum of the Board.

The Board's Response notes that Ms. Garcia and Mr. Gonzales believe that the Email Communications are permissible under A.R.S. § 38-431.09(B), which in relevant part, permits an *individual* member of a public body to "express[] an opinion or discuss[] an issue" through technological means that may come before the public body at a future meeting so long as such "discussion is *not principally directed at or directly given to* another member of the public

⁴ Board's Supplemental Response Attachment 3.

body.” A.R.S. § 38-431.09(B)(1) (emphasis added). Further, this exception does not apply where there is “collective deliberation to take legal action.” *See id.* at (B)(2). Here, the Email Communications plainly do not fall within the scope of A.R.S. § 38-431.09(B) as they were addressed to and principally directed at a quorum of the Board. Additionally, the Email Communications consist of collective deliberations between Ms. Garcia and Mr. Gonzales that propose the Board take legal action on various matters. *See, e.g.*, September 14, 2020 Memorandum Addressed to the Remaining Board Members and Chancellor Lambert (proposing legal action by stating that the Board needs to review its diversity efforts).⁵ This conclusion is in keeping with the Legislature’s directive that the Open Meeting Law be construed in favor of open and public meetings. A.R.S. § 38-431.09(A). Accordingly, Ms. Garcia and Mr. Gonzales violated the Open Meeting Law by sending the Email Communications to a quorum of the Board.

The Board’s Response also included instances where District staff member Andrea Gauna was directed by Ms. Garcia to forward Email Communications to other Board Members. *See Board’s Response* at 2-4. By directing Ms. Gauna to forward these Email Communications to a quorum of the Board, Ms. Garcia violated the Open Meeting Law. *See* A.R.S. § 38-431.01(I).

Violation for Disclosure of Confidential Executive Session Information

Executive session minutes and the discussions held during executive session must remain confidential. *See* A.R.S. § 38-431.03(B), (F). The only persons that can receive executive session information are listed in A.R.S. § 38-431.03(B). Because executive session information is designated as confidential by statute, *see* A.R.S. § 38-431.03(B), (F), civil and criminal sanctions may apply due to its improper disclosure. *See, e.g.*, A.R.S. § 38-431.07; A.R.S. § 38-504(B); A.R.S. § 38-510.

Here, the metadata for the September 14, 2020 Memorandum (concerning efforts to diversify the District) and the June 21, 2021 Memorandum (concerning the termination of a District employee) both contain confidential executive session information. *See Board’s Complaint* at 5-6, Tab 9; *Board’s Supplemental Response Attachment 3*. The Board provided metadata for both the September 14, 2020 Memorandum and the June 21, 2021 Memorandum that shows that along with Ms. Garcia and Mr. Gonzales, a person called Soaring Hawk also authored and/or edited both of these memoranda. *See id.* As of the date of this letter, Soaring Hawk is not a current or former Board Member, and is otherwise not one of the persons or entities authorized to receive executive session information under A.R.S. § 38-431.03(B). *See Board’s Complaint* at 6.

Additionally, and of greater concern, it appears from the September 14, 2020 Memorandum and the June 21, 2021 Memorandum that members of the press and the public at large were copied on these memoranda. *See Board’s Complaint* at Tab 9 (addressing the memo to include “faculty, staff, student body, and county residents” among others); *Board’s Supplemental Response Attachment 3* (“Our Constituents” listed as cc recipient). As stated above, confidential executive session information may not be released to any person or entity that is not listed in A.R.S. § 38-431.03(B). Because Ms. Garcia and Mr. Gonzales communicated

⁵ *Board’s Complaint* at 5-6, Tab 9.

and provided access to confidential executive session information to unauthorized persons, Ms. Garcia and Mr. Gonzales individually violated A.R.S. § 38-431.03(B), (F) for both the September 14, 2020 Memorandum and the June 21, 2021 Memorandum.

Remedy

To remedy this violation, the Office considered the readily available records documenting whether the Board has had any recent open meeting violations, the Board's responses and documentation, the nature and scope of the violations found herein, and that Board Members Garcia and Gonzales did not respond to or provide affidavits addressing the questions asked in the Office's March 24, 2021 inquiry letter.

Having weighed these factors, and in order to resolve this matter, the Office now requires that the Board and relevant District staff attend an Open Meeting Law training conducted by the Arizona Ombudsman-Citizens' Aide, another pre-approved organization, or a pre-approved attorney within sixty days of receipt of this letter. This Open Meeting Law training should emphasize the confidential nature of executive session materials and the implications of using email and other technological communications involving Board business. Evidence of completion of such training shall be provided to the Office to be kept on file.

Additionally, the Board must share the contents of this violation letter (excluding any executive session information) with the public at the next practicable public meeting. Any statement read to the public regarding this matter must be pre-approved by the Office. The Office has noted this occurrence as a violation, which will be considered in determining the response to any further Open Meeting Law violations by the Board and its current members.

Further, any subsequent Open Meeting Law violations by Board Members Garcia and Gonzales proposing legal action to a quorum of the Board via email, and/or the disclosure of confidential executive session information will be considered knowing violations pursuant to A.R.S. § 38-431.07(A).

This letter relates solely to the disposition of the aforementioned Open Meeting Law complaint; it is not a formal opinion of the Attorney General's Office and should not be cited as authority in other matters.



Katherine Jessen
Assistant Attorney General
Open Meeting Law Enforcement Team

Attachment 2



MARK BRNOVICH
ATTORNEY GENERAL

OFFICE OF THE ARIZONA ATTORNEY GENERAL
SOLICITOR GENERAL'S OFFICE
GOVERNMENT ACCOUNTABILITY UNIT

MICHAEL S. CATLETT
DEPUTY SOLICITOR GENERAL
PHONE No.: (602) 542-3333
OMLETINFO@AZAG.GOV

December 8, 2022

Via Email & By Certified Mail, Return Receipt Requested

Maria D. Garcia
Pima County Community College District
Governing Board Member
4905 E. Broadway Blvd.
Tucson, AZ 85709-1005
District3@pima.edu

Re: Open Meeting Law and the Pima County Community College District Governing Board

Board Member Garcia:

The Office of the Attorney General has received multiple Open Meeting Law complaints regarding your activities as a member of the Pima County Community College District Governing Board (the "Board"). The Attorney General is authorized to investigate alleged violations of and enforce Arizona's Open Meeting Law. The complaints have been assigned to the Government Accountability Unit, and in particular the Open Meeting Law Enforcement Team (OMLET).

The initial complaints contain multiple allegations concerning you and fellow Board Member Luis Gonzales. First, the complaints allege that you and Mr. Gonzales discussed an executive session matter during the public session of the April 15, 2022 meeting. Second, the complaint alleges that you and Mr. Gonzales discussed matters that were not listed on the agenda for the Board's June 8, 2022 meeting. Finally, the complaints allege that you and Mr. Gonzales went beyond the permissible scope of the current events summary permitted under A.R.S. § 38-431.02(K), by reading detailed statements that contain information or topics that would foreseeably come before the Board for future legal action. Specifically, the complaints allege that your and Mr. Gonzales' statements are not appropriate for the current summary and should have been listed on the agenda.

While the OMLET was investigating the initial set of complaints, it received additional complaints alleging that you once again discussed a matter that was not listed on the agenda and called for the Board's action on that matter during the Board's September 14, 2022, meeting in violation of A.R.S. § 38-431.02, and that you publicly disclosed in an October 7, 2022, letter materials from a September 8, 2022, executive session in violation of A.R.S. § 38-431.02.

It should be noted that this alleged conduct all occurred after the OMLET resolved a previous complaint with the Board and received evidence of the Board having recently undergone training aimed at avoiding such breaches in the future. If true, the allegations evince a disturbing disregard for Arizona law and the OMLET's attempts to enforce it.

Upon the OMLET's investigation of the additional complaints, additional allegations that you are knowingly continuing to violate the Open Meeting Law were brought to our attention.

Furthermore, in the course of our investigation, we received yet another complaint on October 15, 2022 alleging that you and Mr. Gonzales again violated the Open Meeting Law at the October 12, 2022 Board meeting, during which you and Mr. Gonzales discussed substantive matters that were not properly agendaized.

Additionally, we have received complaints, dated November 18, 2022 and December 6, 2022, from Board members alleging your and Mr. Gonzales' repeatedly knowing violations of the Open Meeting Law going back as far as early 2021 to the present, violations which culminated in the OMLET's April 14, 2022, determination of violations against both you and Mr. Gonzales.

This letter's purpose is to request information from you regarding the aforementioned complaints so that we may better assess this matter. To that end, and pursuant to A.R.S. § 38-431.06(C), please provide a written response to the above allegations.

Please forward the information requested within fourteen (14) days of receiving this letter. Any objections to or reasons for not complying with this request should be filed with the Attorney General's Office no later than the same deadline. A failure to timely respond to this letter may result in the finding of a violation(s) and the imposition of appropriate remedies, including removal from office. If legal counsel will be representing you in connection with this inquiry, please have counsel notify me of such representation.



Michael S. Catlett
Deputy Solicitor General
Open Meeting Law Enforcement Team

cc: Jeffrey Silvyn, General Counsel (jsilvyn@pima.edu)
Eric Levy, Deputy County Attorney (Eric.Levy@pcao.pima.gov)

Attachment 3

From: "Ripley, Catherine" <cripley@pima.edu>

Date: November 18, 2022 at 1:49:33 PM MST

To: aginfo@azag.gov

Cc: Laura.Conover@pcao.pima.gov, sam.brown@pcao.pima.gov, omletinfo@azag.gov, druiz@az.gov, khobbs@azsos.gov, kkm@krismayes.com, Ruben.Reyes@mail.house.gov, btoma@azleg.gov, wpetersen@azleg.gov, regina.romero@tucsonaz.gov, cityclerk@tucsonaz.gov, cob_mail@pima.gov, Lee Lambert <llambert@pima.edu>, Demion Clinco <district2@pima.edu>, "Silvyn, Jeff" <jsilvyn@pima.edu>, Abigail.obrien@mail.house.gov, jen_cox@kelly.senate.gov

Subject: Pima Community College Board Members Garcia and Gonzales' refusal to follow Arizona Law

November 18, 2022

The Hon. Mark Brnovich
Arizona Attorney General
2005 N Central Ave
Phoenix, AZ 85004-2926
aginfo@azag.gov
(602) 542-5025

Subj: Pima Community College Board Members Garcia and Gonzales' refusal to follow Arizona Law

Dear Attorney General Brnovich,

On November 14, 2022, I tendered my resignation from the Pima Community College Board of Governors in order to take on the duties of full-time caregiver for my mother. Additionally, having served as the Chair since January, the criminal and abusive behavior of board members Maria Garcia and Luis Gonzales, made it nearly impossible to effectively lead the college and conduct board business.

Since assuming the role of Chair in early 2022 I experienced firsthand with shock and horror a brazen and total disregard for the law by these two board members which have, and continue to, directly undermine the mission of this public institution, the ability of the board to conduct business and destroy the public trust. In addition to unlawful and continuous violations of the open meeting law, these two members refuse to follow board bylaws and policy which makes governance of the college nearly impossible. Their actions go beyond mere "conduct unbecoming an elected official."

Garcia's refusal to comply with Arizona Open meeting law and maintain the confidentiality of the executive sessions is an audacious dereliction of duty, an abdication of fiduciary responsibility, and extreme abuse of power that has directly undermined the democratic authority of the board, costing taxpayers, and eroding the ability of the College to effectively operate.

Despite warnings from your office, hours of extensive training, and reprimands from fellow board members, Garcia refuses to comply. Records and actions are extensively documented by PCC legal counsel. Her behavior is nothing less than a mockery of Arizona law and the authority of the office of Attorney General. Since your public warning to the district and to these two board members that this behavior needed to stop, the opposite has happened, and violations have only accelerated. Garcia has made multiple disclosures of executive privileged information at public meetings and in a letter written by their friend, a Mr. Soaring Hawk, for public distribution. She has also informed the board that she had destroyed public records related to the college's accreditation. As a result of this ongoing behavior, the board can no longer effectively operate and struggles to provide direction on legal issues.

In addition to the documented disclosures, I am certain, if your office obtains Garcia's and Gonzales' personal emails, phone, text records, and documents which they have refused to turn over as part of public records requests, you will find extensive evidence of disclosures of privileged information, conspiracy with college employees and individuals to undermine the board, and collaboration with individuals that are in active litigation with PCC. This includes coordinated and repeated refusals to cooperate voluntarily with the college council, contrary to obligations as a board member. In addition, the online recordings of every board meeting reveal that nearly all of Garcia and Gonzales' statements, which are read out loud, are conspired by and written by Mr. Soaring Hawk and have included details from our executive sessions. Finally, through their actions they have created a dangerous climate of fear that has encouraged public collaborators to threaten and intimidate the publicly elected members of the board and employees of the college.

These deplorable, intentional, and unlawful acts are undemocratic, reckless, and are destroying Pima Community College.

Given the total contempt for the law and complete disregard of warnings from your office; recent changes in leadership; departure of Board members Clinco, Hay and myself, who have held the board together; and placement of the board on monitoring from the college accreditor the Higher Learning Commission, I respectfully request you urgently and immediately remove Maria Garcia and Luis Gonzales from office. The successful operation of PCC depends on it.

PCC is a vital and necessary institution to Pima County's economic and social welfare. Board Members Garcia and Gonzales have verbally and through their actions, demonstrated their immediate intent to destroy the institution. With the college up for reaccreditation in 2023, I fear our community will suffer deeply. If action is not taken before the end of the year, I am concerned Garcia and Gonzales will successfully damage this institution beyond repair, fire leadership, and make institutional changes, not in the best interest of the college, but specially designed to obfuscate their illegal behavior and shield themselves from accountability. Thank you for your time and consideration of this serious matter.

Sincerely,

Catherine D. Ripley
Commander, USN (ret)
Former Chair of Pima Community College Board of Governors
(520) 429-5064

Attachment: 1. Office of the Arizona Attorney General re: Open Meeting Law Violations

CC:

Laura Conover, Pima County Attorney, Laura.Conover@pcao.pima.gov

Samuel E. Brown, Chief Civil Deputy, Pima County Attorney's
Office, sam.brown@pcao.pima.gov (520) 724-5600

Katherine Jessen, Assistant Attorney General, OMLETinfo@azag.gov

Hon. Governor Doug Ducey, druiz@az.gov

Hon. Kati Hobbs, Arizona Governor-elect, khobbs@azsos.gov

Hon. Kris Mayes, Arizona Attorney General-elect, kkm@krismayes.com

Hon. Mark Kelly, United States Senate, jen_cox@kelly.senate.gov

Hon. Raul Grijalva, United States House of Representatives, ruben.reyes@mail.house.gov

Hon. Ann Kirkpatrick, United States House of Representatives Abigail.obrien@mail.house.gov

Hon. Rep. Ben Toma, Arizona House of Representatives, btoma@azleg.gov

Hon. Sen. Warren Petersen, Arizona Senate, wpetersen@azleg.gov

Mayor Regina Romero and the City of Tucson

Council, Regina.Romero@tucsonaz.gov, cityclerk@tucsonaz.gov

Pima County Board of Supervisors, COB_mail@pima.gov

Attachment 4

RESOLUTION NO. 2022 - 75

RESOLUTION OF THE PIMA COUNTY BOARD OF SUPERVISORS CALLING ON THE ARIZONA ATTORNEY GENERAL TO INVESTIGATE ALLEGED VIOLATIONS OF OPEN MEETING LAWS BY MEMBERS OF THE PIMA COMMUNITY COLLEGE GOVERNING BOARD

WHEREAS for over 50 years Pima Community College has been a vital cornerstone and driver of Pima County's economy and public higher education system, providing comprehensive and flexible learning opportunities and access to every resident of Pima County.

WHEREAS Pima Community College is a valued partner to the County in the growth, attraction, and retention of businesses to Southern Arizona, ensuring that Pima County residents have well-paid job opportunities that lead to lifelong careers, providing economic stability and upward mobility.

WHEREAS having invested millions of dollars in educational programs at Pima Community College, Pima County has a vested interest in ensuring good governance and fiduciary responsibility at the College.

WHEREAS Pima Community College is led by an elected Governing Board comprised of five members who have taken the oath of office and are subject to state law.

WHEREAS in a letter dated April 14, 2022, the Office of the Arizona Attorney General delivered a finding that two members of the Pima Community College Governing Board have repeatedly violated the State's Open Meeting Law "...by disclosing confidential executive session information to a third party that was not authorized to receive such information pursuant to A.R.S. § 38-431.03(B), (F)."

WHEREAS recently resigned Governing Board Chair Catherine Ripley, in a letter distributed to the Pima County Board of Supervisors dated November 18, 2022, alerted the Arizona Attorney General of numerous subsequent allegations of violations of the same law and noted, "Since assuming the role of Chair in early 2022 I experienced firsthand with shock and horror a brazen and total disregard for the law by these two board members which have, and continue, to directly undermine the mission of this public institution and the ability of the board to conduct business, and destroy the public trust."

WHEREAS Ms. Ripley's letter continued by saying that the "refusal to comply with Arizona Open Meeting Law and maintain the confidentiality of the executive sessions is an audacious dereliction of duty, an abdication of fiduciary responsibility, and extreme abuse of power that has undermined the democratic authority of the board, costing taxpayers, and eroding the ability of the College to effectively operate."

WHEREAS the continued existence and success of Pima Community College is of utmost importance to all the residents of Pima County and violations of the law by Board members directly threatens its institutional viability as it is under current review by the Higher Learning Commission.

NOW, THEREFORE, UPON MOTION DULY MADE, SECONDED AND CARRIED, BE IT RESOLVED THAT:


1. The Pima County Board of Supervisors reaffirms its support for the mission of Pima Community College and attests to the crucial role the College plays in providing affordable, accessible educational opportunities to all Pima County residents.
2. The current situation at Pima Community College constitutes a crisis that, left unresolved, will erode public trust in the institution and lead to irrevocable harm to the College and therefore the community.
3. The Pima County Board of Supervisors respectfully asks the Office of the Arizona Attorney General to swiftly investigate the actions of members of the Pima Community College Governing Board, particularly regarding adherence to Arizona's Open Meeting Law, and take immediate action for any Board Member found to have knowingly and repeatedly violated the law pursuant to A.R.S. § 38-431.07 or any other relevant statute or law.

PASSED AND ADOPTED this 6th day of December, 2022.

 **DEC 06 2022**

Sharon Bronson, Chair,
Pima County Board of Supervisors

ATTEST:


Melissa Manriquez,
Clerk of the Board

APPROVED AS TO FORM:


Sam Brown,
Chief Civil Deputy County Attorney

Attachment 5

From: "Garcia, Maria" <mgarcia12@pima.edu>
To: llambert@pima.edu
CC:
Date: 12/29/2022 7:14:30 AM
Subject: Re: Board Meeting

Chancellor Lambert,

IF Board members are requesting for the board meetings to be open to the public, I dont understand your failure to open the board meetings up to the public. I would recommend that you Query the entire board to see if they have any objections to or in agreement to open the board meeting to the public. I see this as a very simple act.

Maybe you should send my request to Jeff in order to see if I can be found to violate the board policy.

Chancellor,

I sincerely ask that you evaluate your position at the college.

You are the chancellor and the board is who you respond to, not the other way around.

In my opinion you have been allowed to tie the board down so that you control the entire board so that you aren't held accountable and you have been allowed to control every situation by delegation of authority, and board policy ect..

You allowed the majority of the board to disrespect us and orchestrated support for you from the community with tax dollars. You were never chosen for the Position in Ventura College. You have continued wasteful spending of the community revenues. Including selecting vendors of your choice that are associated with NC3, Lincoln Electric being the next example.

I requested that the Chase contractor be present at the board meeting and the chair ignored my request.

Chase purchased the items from Lincoln Electric based on direction from the college.

This should have been sent out for bids.

My prayer for this year is that you are finally held accountable and put in your place as a Chancellor and that the New Board will Perform its real duty to the community.

I hope that you will perform your duties as a Chancellor and that all this Chaos will be in the past.

I Am looking forward to working in a productive and respectful manner with the New Board Members.

Maria

On Wed, Dec 28, 2022 at 12:07 PM Lambert, Lee <llambert@pima.edu> wrote:

Hi Maria. We will keep in mind your request. We continue to monitor the current health impacts in our community. I hope we will have a clear picture before having to make a final decision. Lee

On Mon, Dec 26, 2022 at 12:11 PM Garcia, Maria <mgarcia12@pima.edu> wrote:

Chancellor Lambert,

I am requesting that the Jan board meeting allow the public to attend.

From: "Garcia, Maria" <mgarcia12@pima.edu>
To: llambert@pima.edu
jsilvyn@pima.edu
CC:
Date: 1/9/2023 10:56:33 PM
Subject: Fwd: Notice of Appeal to Review Disciplinary Actions
Attachments: [Notice of Appeal to Review Disciplinary Actions.pdf](#)
[Documentation - Appeal of Disciplinary Actions.pdf](#)

Chancellor Lambert

Please be ready to respond to this issue.

I plan on sending this to email to the HCL unless you remedy this situation satisfactorily to the affected employees.

I'm aware that it is more than this one employee that has been retaliated against.

In my opinion this is definitely retaliation action, Chancellor can you see that you are not suited to lead an education institution.

Your administration has been working diligently in retaliating against Bill Wards prior employees.

When are you going to be held accountable? Chancellor please resign . You dont have the leadership skill to lead this Community College.

It not that i dont value you as a person. It is apparent to me that you are in the wrong environment in order to make the best use of your leadership.

Perhaps you would be better suited in a corporate environment.something that you should seriously consider.

My opinion is that an educational environment is easy to control by someone like you.

A corporate environment has a lot of competition and in my experience employees in leadership are held accountable.

I hope you realize that the political and business community are eating crow.

Just resigned for the best interest of this community.

Board Member Garcia

----- Forwarded message -----

From: "Garcia, Maria" <mgarcia12@pima.edu>
To: triel_bog@pima.edu
llambert@pima.edu
CC:
Date: 4/4/2023 6:19:24 PM
Subject: Board Policy 1.05

Chairwomen Riel,
I am requesting that Board Policy 1.05 be placed on the agenda for discussion.
I understand that the rules to implement a change to a Board Policy
can be expedited if we suspended the rules temporary, specifically the 21 day notice.
I believe that it is the best interest of the college for the board to review this policy as soon as possible.
Thank You for your attention to this matter.

Board Member
Garcia



Fwd: Chancellors authority

[REDACTED]
Tue, Jun 27, 2023 at 10:31 PM

Sent from my iPhone

Begin forwarded message:

From: "Garcia, Maria" <mgarcia12@pima.edu>
Date: May 28, 2021 at 6:14:05 PM MST
To: Demion Clinco <district2@pima.edu>
Subject: Re: Chancellors authority

On Fri, May 28, 2021 at 5:50 PM Garcia, Maria <mgarcia12@pima.edu> wrote:

Demion,

I would like the entire Board to decide if the mediator from HLC should be here. It has been my experience that HLC people only support the chancellor's view.

I would suggest that we need to consider someone else to provide mediation, not the HLC.

I would like to state that Jeff only provides his opinion and interpretation of what he believes is valid, but it is only an opinion.

It is the Board that decides how and what the interpretation of policies is.

Since I don't trust any advice that our present counsel provides.

I suggest that we as the board hire an independent Lawyer to provide us with interpretation of policies vs state statute and board members, chancellor roles.

In our last meeting you stated that [REDACTED] did not come forward with what he viewed as ongoing violations. Board member Luis Gonzales informed the entire Board in an open statement at our April meeting.

Upon our knowledge we shared it at the April meeting.

The chancellor has violated due process of an employee and may I remind you that this is not the first time Chancellor Lambert has done this to an employee and the college has been found at fault.

On Fri, May 28, 2021 at 3:58 PM Demion Clinco <dclinco@pima.edu> wrote:

Dear Maria,

I wanted to respond to your request before the holiday weekend for an action item at the June 9 Board meeting for a vote on whether the Chancellor has the authority to terminate an employee. During our conversation yesterday, we agreed that there would be a discussion with legal counsel in executive session about the respective roles and responsibilities of the Board and Chancellor regarding personnel matters. I have initiated the process to invite Linnea Stenson, the Higher Learning Commission VP for Accreditation

Relations, to meet with the Board to discuss HLC expectations and experiences, including this topic, so the Board could consider whether any changes to current policies and practices should be made.

While I understand that you would oppose the termination of Bill Ward should the Chancellor decide to do so, Board intervention in a specific personnel matter would be a significant departure from the current Board bylaws and policies. I am worried it would also be contrary to accreditation requirements:

From HLC Criterion 2C - 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.

If we are going to change the bylaws or policies, there is a specific process we are required to follow. In addition, we should make a well-informed decision. As you know, we are looking for outside counsel to assist with a review and possible revision of the bylaws. In the meantime, there is no action for the Board to take on a specific personnel matter.

If you would like to schedule another call with Jeff and I, or Lee that might be a good option.

Let me know.

I am going out of town for the weekend and will be back Tuesday. Have a very safe holiday weekend.

Demion

Sent from my iPhone

On May 28, 2021, at 9:53 AM, Garcia, Maria <mgarcia12@pima.edu> wrote:

Chairman Clinco,

I am requesting that you add the chancellor's authority as an action item on the June 9th board meeting.

I disagree with the interpretation that we have given the chancellor unilateral authority to fire employees. I'm requesting that the interpretation be placed for a discussion and be voted on by the governing board.

Thank You

Maria

From: "Garcia, Maria" <mgarcia12@pima.edu>

To: jsilvyn@pima.edu

llambert@pima.edu

CC:

Date: 11/16/2022 9:26:04 AM

Subject: Re: Ward v. Pima Community College

Jeff,

Good Morning,

Since I have been deposed by the college in order to defend the chancellor actions against Bill Wards Lawsuit.

It seem logical that the college should pay my legal fees. I am submitting my expenses and hope you will understand that I will be filing a lawsuit against the College for legal fees and Harassment and intimidation.

Having been served at the retreat was uncalled for humiliating and intimidating . The other board members smiled and even made comments to me after I was served. It was unnecessary The chairperson wasn't served at the retreat nor the Chancellor. The trust attorney Had already had a discussion on a date for me to be deposed with my attorney. Jeff you most likely provide the attorney with the information as to my appearance at the retreat. I have witnesses to the effect it had on me. I also want to inform you that if i am called in to court I will be represented by counsel of my choice.

This expense is not the only one I have paid.

Thank You

Maria Garcia

On Tue, Nov 15, 2022 at 10:59 AM [REDACTED] wrote:

Good morning.

Attached please find our invoice #92937 for professional services rendered in the above-referenced matter.

The total amount of this invoice is the sum of \$300.00. We have applied your retainer funds to the amount due. Therefore, there is nothing due at this time. Your retainer balance is the sum of \$1,870.00.

You may now use the link below to pay your monthly invoices:



If you have any questions regarding this invoice, please do not hesitate to contact our office. Thank you.



Attachment 6

March 30, 2022

Re: HLC Focus Visit

To Jeff Sylven,

Good morning Jeff,

I wanted to outline some unusual aspects of the four HLC meetings in which I participated on Monday, March 28. This memo is intended to memorialize my experience of these meetings and outline my concerns related to the conduct of the lead reviewer Mr. Benjamin Young. It was my understanding based on the communications sent by the HLC in advance of the review that the focused visit was intended to assess core components of the HLC Criteria for Accreditation in particular 2.C and the board.

To better articulate my concerns I have organized this outline into sections each representing a separate meeting led by Mr. Young.

11:00 AM -11:30 AM Individual meeting between Myself and Mr. Young

I arrived a few minutes before the meeting was scheduled to start. Mr. Young arrived a few minutes late and the room was still occupied by the other reviewer and another board member. Concerned about the limited time I suggested we sit outside at a table. Mr. Young began the meeting with an informal review of my resume, noting the college I attend and aspects of my professional work. He then asked why I believed the HLC was visiting the college. I responded that it was my understanding the HLC had received formal letters of complaint related to contracting and board action. I stated it was my understanding the visit was an appropriate response based on the ongoing conduct of two board members and the team was here specifically to examine the adherence to HLC criteria with a focus on the board and criteria 2.C.

Mr. Young then began to share personal information about himself, that he owned a home in the midwest, a second property, and held interests in a farm. Unsure of why Mr. Young was using our limited time to discuss his personal real estate holdings I tried to pivot the conversation back to the Core Components and the college. I stressed that I strongly believed that despite the decent, 3-2 split of the board and the individual rogue behavior of two members the college and the board remained in compliance with HLC criteria. I explained as an elected board it is quite difficult to hold individual board members accountable for actions that do not follow board by-laws and college policy. I explained an election would occur this fall and I believed it would be in the best interest of the college for the HLC to institute monitoring for the board, but it would be just as important for the report to be explicit about board conduct.

Mr. Young again began to share personal information. He started by saying this was "offline and just person to person," He then told me his wife had died in 2019 and his daughter had died in 2021. Unsure of how to respond I expressed my condolences. He then again restated that this

was a “person to person” conversation, which was completely inconsistent with my understanding of the purpose of the focused visit.

Mr. Young then steered the conversation to a discussion that I believed was intended to focus on issues of board equity (not board actions related to institutional equity). He began by alluding to the socio-economic and professional differences between board members. He referenced Dr. Hay’s research and pharmaceutical development and then the professional work I have done in cultural resources. He then asked about the fairness and treatment of certain members of the board. He made referred to some written statements that “included terms like “*Them*” “*They*” and “*Others*.” Mr. Young did not provide the details or a copy of this statement. Unable to respond without context and additional details I stressed my belief that each member of the board brings an important and valuable perspective to the table; I explained that during my tenure as the board chair I worked very hard to insure educational professional development support was provided and offered to assist members who had different levels of experience.

Mr. Young noted that there were examples from meetings where I tried to “kindly” assist Ms. Garcia with making amendments to motions. He then stated, “You are such a busy person with all the things you do, you must only sleep 5 hours a night, and it must be very frustrating to have to deal with some of this.” I again explained that during my tenure as the board chair I worked with the chancellor and legal council to help provide support to members of the board who were frustrated with the rules of order. I provided an example that Roberts Rules of Order coaching was offered to Ms. Garcia and that any frustration I might have is related to an unwillingness of members to participate in the professional development and follow professional standards and institutional policies.

Mr. Young then talked about his knee replacement and the meeting time came to an end. He stood up pulled up his pant leg and showed me the surgical scar on his knee and made a reference to a hip replacement.

I stood up and thanked him for being at the college to lead this important work and stated I was available at any time to answer any follow-up questions.

At the conclusion of the meeting, I was very concerned that almost none of the 30min was spent discussing the core components or questions related to compliance.

12:00 - 12:30

Board Lunch with HLC Peer Reviewers

The two peer reviewers arrived late for the lunch. The round table lunch was held in the board room with members of the public in attendance. I was under the impression it was a working lunch but there was no agenda or structure. There was general and informal conversation unrelated to the college.

At one point towards the end of the lunch, Mr. Young turned to me from across the room and said something about a summer house in Payson, Arizona. I did not understand Mr. Young’s

question/statement so I asked him to repeat it. He then said something about me owning a Summer House in Payson, Arizona. I was completely unclear what Mr. Young was saying since I don't have a summer house and am not exactly sure where Payson, Arizona is located. Incredibly confused, thinking I had misunderstood and perhaps it was Mr. Young telling us about his summer house; I asked Mr. Young where exactly is Payson, Arizona is located. There was a response about it being close to Globe, Arizona, Dr. Hay responded that Payson is north of Globe on the way to the White Mountains. I stated that I have only been to the white mountains a few times, have been to the Globe but am not really familiar with Payson. Mr. Young then said something to the effect of, "it's nice you can afford a summer house, I can't." I responded, "I don't have a summer house."

Mr. Young's public questions about a "Summer House" were very unusual and in the context of a public meeting and having just had the one-on-one meeting where Mr. Young's statements implied social-economic inequity on the board - the line of questioning seemed highly irregular. Mr. Young's assumption and statement related to the ability to afford a summer house were totally inappropriate and unrelated to any aspect of my role as a board member and HLC criteria.

12:30 - 2:30 Governign Board Speical Meeting with HLC Peer Reviwers

The meeting was called to order and recorded. Mr. Young led the conversation and questions. Mr. Young seemed unprepared for the meeting. The questions were ill-framed, asked poorly, asked in no order, made little sense which created confusion within the board. This awkwardness of the meeting was compounded by the tension within the board which I personally felt had been agitated by Mr. Young's very unusual one-on-one interview style and the statements about a "summer house" and the underlying implication of inequity.

4:30 - 5:30 HLC Peer Review meeting related to procurement

The meeting included board member, Garcia and leadership staff from procurement, facilities, finance, and educational programming. Mr. Young began the meeting with questions to the administrative team about the Trane energy audit and contracting. Dr. Bea provided an overview of the initiative. At one point Board member Garcia interrupted to discuss very detailed aspects of the operational workings of the agreement which in my belief is well outside of board responsibility, she also stated that she did not believe the board appropriately voted to approve the contract in December. Other basic questions were asked Mr. Young and answered by the administrators. Then the representative from the facilities department began to talk about all of the issues that have been fully investigated. Then she stated she did not feel comfortable discussing any additional issues in front of the group. Mr. Young asked if we would wait outside for 5 min so they could continue the conversation. The group waited in the hallways for 30-45 min. Mr. Young asked us to return, there were no additional questions and the meeting concluded.

I was very concerned that again, there was no discussion about HLC criteria, no conversation with board members about their role in the procurement process, and that the reviews seemed to be open to engaging in a discussion that did not focus on facts, core criteria or board roles.

Demion Clicno

Attachment 7

From: Catherine Ripley, Board Chair, Pima Community College

To: Jeff Sylvn, Legal Counsel, Pima Community College

Subj: Higher Learning Commission Focused Visit, 28 March 2022

I would like to share some of my insights, observations and takeaways from the subject meeting on 28 March 2022. It was the board's understanding that the HLC focused visit would address very specific allegations regarding open meeting law violations and complaints filed by outside entities.

1. My personal appointment was scheduled for 11:30 a.m. with the two HLC Peer Reviewers. They were running a bit late so my meeting lasted a total of 15 minutes. The meeting opened with statements by Peer Reviewer Ben Young regarding my CV and background. During the meeting I was asked a few questions about my reasons for being on the board of governors and what was most satisfying about being on the board. I relayed my passion for service and community and desire to continue to serve communities in the most need. I found it odd that there were only a couple of very open ended questions regarding my intentions and background. They did not delve into any questions that directly addressed the reasons for this focused visit.
2. At noon, we departed the meeting rooms and reconvened in the district office conference room where we had a working lunch with the entire board and Peer Reviewers. There were several members of the public seated in the audience.
3. The meeting was brought to order by myself and turned over to the Peer Reviewers to begin their questioning. The questions that were asked were very vaguely and awkwardly phrased and often open-ended, perhaps by design. The reviewers did not appear to have a well thought out list of questions, as there were several long and awkward silences in between questions. The question regarding our school's demographics and whether the board had a say in the hiring and firing of employees seemed out of place but we answered those to the best of our abilities. Again, perhaps this method of questioning perhaps was purposely designed to cause awkwardness in order to test our abilities as a board to think on our feet?
4. On several occasions, the questions were so poorly worded that all board members had to ask them to repeat and re-phrase their questions. Due to the vagueness of some questions, some board members, used the opportunity to launch into other topics and used the platform to grand stand, serve complaints and address grievances to the Peer Reviewers. On those occasions the reviewers would eventually steer the member back to the original question.
5. It became clear to me by the end of the lunch session that the discussions did not directly address the original intent of this focus visit, but rather involved a very confusing and disconnected series of seemingly random questions that did not leave us, as board members with any sense of direction at the least, or hope for a way forward at best.
6. The last question posed to the board was to offer each of us a chance to state how we would try to improve the board going forward. I offered that I would continue in the same methods to take advantage of current professional development offerings as well as continue our monthly Study Sessions, annual retreats, and committee involvement. I also vowed to strive to communicate more often and seek other methods to help board members fully understand and

grasp the contents in our board document packets which are always provided a week before each board meeting by reiterating the available resources at hand such as IT, Admin Executives and step by step guides in order to help board members prep prior to Exec Sessions and Board Meetings.

7. The gravity of the reasons behind the prompting of this focused visit was never addressed nor was there a sense that the reviewers really knew the background or backstory, even though they repeated the phrase "dysfunctional" used by board members. I was never asked why I thought the board was having problems nor was the board as a group asked about how we arrived at this place in time where board members have formally complained to the Higher Learning Commission. I feel that I perhaps, missed the vaguely unspoken signals to speak up and give them a run down from my point of view, but I was waiting for that question to come up and it never did. I was left feeling confused and misled about their purpose, and felt that the fundamental problems with the board were never addressed or questioned.

Attachment 8

October 31, 2022

Chair Catherine Ripley and Chancellor Lee Lambert
Pima Community College District
4905 E Broadway Blvd.
Tucson, Arizona 85709-1005

RE: Possible Violation of College Policies by College Employees

Chair Ripley and Chancellor Lambert,

Based on the October 6, 2022 monitoring letter from the Higher Learning Commission which requires evidence of the board's "continued work on processes to improve adherence to appropriate Board and State policies with a focus on the role of shared governance" and per board bylaws, Specifically, Article X Code of Ethics Section 5. Procedural Responsibilities 1 and Bylaw Article XII Response to Complaints, Section 3, Process for Handling Specific Types of Complaints, and because of the serious nature of this concern, I am forwarding the relevant details to both of you for action. I believe this complaint is significant enough for the board to place it on the November 9, 2022, agenda to provide direction to the administration requesting an investigation.

Over the last month, it has come to my attention that PCC employee Makyla Hays has taken a series of actions, using her employment and position within the college, that appears to have had consequential impacts on the college district, institutional resources, and I believe are in fact, intended to affect the outcome of the upcoming board elections.

1. Recent complaints to the PCC's accreditor, policy violation, and motivation:

The board was notified by a member of the public, who is neither an employee nor a student of the college, in two separate emails on October 9, 2022, and October 10, 2022, that complaints were submitted to the College Accrerator the Higher Learning Commission (HLC). In both emails, PDF attachments were included. (Exhibit A1, A2, B1, and B2)

Ms. Hays is both President of the PCCEA (AEA affiliate) and co-chair of the PCC All Employee Representative Council. These were specifically the two entities that submitted the complaint letters. As reported in the October 10, 2022, Arizona Daily Star article, Ms. Hays was the prime signatory on both of the complaints.

In both letters, it appears the actions of college employees and committees circumvented, ignored, and violated college policies and processes. In addition, I am concerned about the intent and the underlying motivation for these complaints.

Ms. Hays is listed as the chair, on the country elections reporting system, (Exhibit C and D) of a Political Action Committee PAC called "Educators for Pima" that is actively electioneering in this Campaign for the board. (Exhibit E).

One of the letters was ratified by the PCC Faculty Senate on October 7, 2022. Acting President & President Elect Rita Lennon made a financial campaign contribution a week before this action on September 29, 2022. ([Pima County Election Reporting Page 9](#)).

The complaints have become the center of the campaign messaging of the individual they are coordinating with and supporting. Given the conflicts, the avoidance of college policy, the front page headlines they garnered, and the timing to align with the start of early voting, it is reasonable to conclude these complaints were designed to impact public perception of the college, college leadership, and board effectiveness in a direct effort to influence the election, and are in fact motivated by politics.

I am concerned that public employees of the college may have used their position to weaponize the accreditation process for political purposes that harms the institutional interests and in doing so have engaged directly in electioneering.

2. Employee Coordination with Board members,

In addition, as the board is aware, the Office of the Arizona Attorney General sent a letter on April 14, 2022, to the district, outlining violations of the Arizona Open meeting law and detailing remedies. The letter specifically identified the behavior of board members, Garcia and Gonzales, and named a collaborator Mr. Soaring Hawk. The correspondence and the seriousness of the matter were reported to the board by Susan Segal, an attorney with Gust Rosenfeld under item 1.5 at the May 11, 2022, public meeting.

In closer review of Exhibit B2, the letter signed by Ms. Hays and sent by a third party to the board, the metadata document properties of the PDF list Mr. Soaring Hawk as the author. I believe this needs to be investigated to understand the breadth of policy violations and collaboration between employees of the college and board members to undermine the democratic decisions of the board.

I am requesting this be placed on the November 9th meeting agenda for action. The date is after the election. I am concerned that the reporting of these complaints will be conflated as election tactics, which they are not. No matter the outcome of the election I believe these concerns need to be investigated by the college.



Demion Clinco
Vice-Chair, Governing Board District 2, Pima County College

Cc. Jeff Silvyn, General Counsel, Pima Community College

Exhibit A1, October 9, 2022 email:

From: Richard Hernandez <rhntz109@gmail.com>

Date: October 9, 2022 at 8:28:31 PM MST

To: Demion Clinco <dclinco@pima.edu>, <district2@pima.edu>, <district5@pima.edu>, "Hanna, Mark" <markh11@pima.edu>, <district3@pima.edu>, <district4@pima.edu>

Cc: Lee Lambert <llambert@pima.edu>, "Silvyn, Jeff" <jsilvyn@pima.edu>, "Dore, David" <ddore@pima.edu>, "Cavazos, Valerie" <vcavazos@pima.edu>

Subject: AERC HLC Complaint.pdf

BOG,

Yet another legal, moral, ethical reason to fire Lee Lambert (view attachment). It has become clear that the three members of the majority plan to give him yet another raise in addition to a extension of his 5 year contract at the next Board meeting.

This letter to HLC has now been shared with elected leaders, elected school Boards , officials & others all over Southern Arizona. I have also shared this document with the media.

Do NOT give him one cent! No executive session should be invoked to even consider a raise. We still have the million-dollar lawsuit pending. . Bill Ward vs Pima County Community College ie. Leo Lambert. This is set for trial on the Court calendar in Tucson Federal District Court scheduled for trial in February 2023.

I have endorsed two candidates so long as one wins , (I am hopeful both will win) the new Board majority must fire Lee Lambert, Chancellor, with cause. Just this THIRD Lawsuit where tax payers are paying for willful flagrant violations of the Law is enough to provide cause for termination.

This Tuesday, the good ppl of Pima County will be mailed ballots. If you are fortunate enough to win two seats then go ahead give him whatever increase you choose.

Should you win the election then ppl will live with the choice they make.

Bad ppl get into office when good ppl do not vote.

I am a optimist and have been an advocate for our local students that this Chancellor has willfully ignored.

I am prayerful that with our makers assistance we will end the theft of public funding for nefarious actions taken by Clinco, Ripley & Hayes.

Respectfully,

Richard Hernandez
Education/Community Advocate
520 351 1681

Exhibit A2, October 9, 2022 email attachment:

October 7, 2022

Dear Higher Learning Commission,

We, the full-time faculty representatives of the All Employee Representative Council (AERC) at Pima Community College (PCC), on behalf of the full-time employee representatives, submit this letter to the Higher Learning Commission seeking redress to a serious policy violation impacting faculty and staff classification and compensation at PCC. The AERC attempted to resolve this issue through appropriate College channels without success. Given that policy violations affected all PCC employees and given that our grievance was summarily dismissed by the Office of Dispute Resolution (ODR), we find no other remedy than to appeal to the HLC. We request that the HLC hold the College accountable, without risk to accreditation, for following its policies and ensuring an effective and independent Office of Dispute Resolution for students, employees, and community members to report and address policy violations.

History and Context: In 2018, the PCC Governing Board relinquished oversight of the Meet and Confer process, delegating it completely to the Chancellor. In 2020, the College hired a consultant to conduct a classification and compensation study. While steering committees did have faculty and staff representation, they were not representative bodies through the AERC, as required by policy. Members were chosen by administration and prevented from sharing information, gathering feedback, and discussing final pay structures.

Violation: On June 8, 2022, in violation of College policies, new salary structures based on the study were taken directly to the Governing Board, who adopted them without input. At this meeting, public comment was moved to the end, and voting occurred before the Board could hear from employees ([HLC Core Component 2.C.3](#)). The College's actions violated [BP 1.25](#), denying employees and their representatives opportunity "to provide input" into decisions "directly and substantially related to wages, salaries and working conditions in a structured Meet and Confer process." Contrary to [AP 1.25.01](#), the AERC was not allowed to "convene a compensation based Meet and Confer." These are clear violations of shared governance ([HLC Core Component 5.A.1](#)).

Impact: Based on a [survey](#) of all full-time employees by AERC representatives with 364 responses, 77% felt the classification and compensation study was not conducted in an open or transparent manner, 86% felt their opinion or input was not valued and incorporated, and only 17% agreed their salary placement was fair and equitable.

Internal Grievance Dismissed: In a remarkable show of solidarity, all full-time employee representatives on the AERC jointly filed a [grievance](#), which ODR dismissed, stating "the grievance submitted does not include the required elements or meet the definition of a grievable matter." ODR claimed that even if the AERC had been involved, there was no guarantee the outcome would have been different. These actions only reinforce the administration's disregard for established policies and due process.

Lacking any other recourse for these policy violations, we have no choice but to make the HLC aware. We request monitoring and solutions that do not harm PCC's accreditation status or service to students.

Sincerely,

Makyla Hays, Matej Boguszak, Jennifer Guajardo, Andy Shull, Nan Schmidt
On October 7, 2022, the PCC Faculty Senate voted to endorse this letter.

Exhibit B1, October 10, 2022 email:

From: Richard Hernandez <rhndz109@gmail.com>
Date: October 10, 2022 at 12:27:44 PM MST
To: district2@pima.edu, district3@pima.edu, district4@pima.edu, district5@pima.edu, "Hanna, Mark" <district1@pima.edu>
Cc: Lee Lambert <lambert@pima.edu>, "Silvyn, Jeff" <jsilvyn@pima.edu>, "Dore, David" <ddore@pima.edu>, "Cavazos, Valerie" <valerie.cavazos@kgun9.com>
Subject: pccca 1.1.pdf

BOS,

This is another complaint that I recieved today. You may ask yourselves why do it share the truth with ALL (5) of our elected officials? Simple I want it to be a matter of public record that the Board majority of Clinco , Hayes & Ripley have complete & full knowledge of governace failures at Pima County Community College.

This email will be available for possible use in future legal action , media and local voters & tax payers viewing.

I do not want any miscommunication or even be perceived as anything but transparent with my neighbors, community fellow tax payers and voters.

Just a recap of yesterday email multi millions dollar Law suit pending. Two previous Court decision of " violation of civil rights" of two fellow County residents. Pending three (3) more Law suits against Chancellor ie., the Board majority.

We know have published results of HLC findings (avaiiable HLC web page) against the Board majority and It's nefarious leader Lee Lambert.

More of the same that is CRYING out for the firing of Lambert & his loyal cabinet. My sense is we will get more information near future and I am hopeful that local media will expose the depth of corruption at Pima College.

Watch you local news if they are diligent , honest , truthful and not paid off by the local machine they should report all this so the voters , tax payers like me know what is really going on it OUR Community College.

Richard Hernandez
Education/Community Advocate
520 351 1681

Exhibit B2, October 10, 2022 email attachment

Dear faculty,

Much has happened in the past five months: from the Class and Comp study occurring outside of Meet and Confer, the dismissal of the AERC representatives' grievance of policy violations, and the failure of transparency despite numerous requests. I know you have been busy with the valuable work of teaching and attending to your students' needs. You can find all of my past correspondence here so you don't have to hunt through your inbox if you care to re-read the emails.

After exhausting all internal resolution channels, the full-time faculty representatives on AERC have written a letter to the Higher Learning Commission (HLC) to alert them of the shared governance violation and to request oversight needed to hold the College accountable for following its policies that have been created to establish thresholds of accountability and protections for all of us. On Friday, the Faculty Senate voted overwhelmingly (28 yes, 0 no, 1 abstention) to endorse this letter.

Over the weekend, PCCEA submitted a separate letter to the HLC regarding College actions that create an environment of fear and intimidation.

Your faculty leaders have deliberated long and hard about this course of action and do not take it lightly. Both letters specifically asked that the HLC take no action that would jeopardize the college's accreditation status or harm students. We simply need monitoring and oversight. We cannot do our work effectively if policy is not followed or employees are afraid to voice dissenting views.

Based on productive, authentic collaboration with members of the administration in other areas, and based on improved cooperation with the AERC since August, I remain hopeful that the College can right the course. That we can learn to be an institution that values authentic stakeholder input, that honors the voices of all employees, that values transparency, and that recognizes the superior outcomes that result in incorporating these three virtues into everything we do.

Thank you,
Makyla Hays
Math Faculty
PCCEA President
mmhays@pima.edu
520-206-2198

Exhibit C, Pima County Elections Committee "Educators for Pima" Filing:

Not Secure | electionfilings.pima.gov/889/5

pima.gov


Back

Filings for Committee:
 Filer ID: 033-2020
 Committee Name: EDUCATORS FOR PIMA

Filing Time*	Filing Type	Period Name	Start	End	Cycle	Period	PDF
09/03/2020 08:16:59	STATEMENT OF ORGANIZATION	STATEMENT OF ORGANIZATION					view
10/14/2020 16:53:23	CAMPAIGN FINANCE REPORT	2020 2020 3rd Quarter Report	07/19/2020	09/30/2020	2020	8	view
10/21/2020 09:54:50	CAMPAIGN FINANCE REPORT	2020 2020 Pre-General Report	10/01/2020	10/17/2020	2020	9	view
01/22/2021 12:26:54	CAMPAIGN FINANCE REPORT	2020 2020 4th Quarter	10/18/2020	12/31/2020	2020	10	view
04/09/2021 06:12:12	CAMPAIGN FINANCE REPORT	2021 2021 1st Quarter Report	01/01/2021	03/31/2021	2021	1	view
07/02/2021 06:50:34	CAMPAIGN FINANCE REPORT	2022 2021 2nd Quarter Report	04/01/2021	06/30/2021	2022	2	view
10/05/2021 13:23:26	CAMPAIGN FINANCE REPORT	2022 2021 3rd Quarter Report	07/01/2021	09/30/2021	2022	3	view
01/01/2022 11:08:08	CAMPAIGN FINANCE REPORT	2022 2021 4th Q Rpt (PACs)	10/01/2021	12/31/2021	2022	4	view
04/22/2022 16:19:46	CAMPAIGN FINANCE REPORT	2022 2022 1st Quarter Report	01/01/2022	03/31/2022	2022	5	view
08/17/2022 10:09:14	CAMPAIGN FINANCE REPORT	2022 2022 2nd Quarter Report	04/01/2022	06/30/2022	2022	6	view
10/11/2022 08:00:45	CAMPAIGN FINANCE REPORT	2022 2022 3rd Quarter Report	07/17/2022	09/30/2022	2022	9	view

Exhibit D, State of Arizona "Educators for Pima" Committee Statement of Organization:

Initial Application
 Amended Application
 Date: 8/24/2020

 **STATE OF ARIZONA
 COMMITTEE STATEMENT
 OF ORGANIZATION**

COMMITTEE ID NUMBER (office use only)
033-2020

COMMITTEE INFORMATION:

Contact Information:
 Committee's mailing address (required): 8112 N Placita Chula, Tucson AZ 85704
 Committee's email address (required): melbouey@gmail.com
 Committee's phone number (if any): 602-538-4556
 Committee's website (if any):

Chairperson's Information:
 Chairperson's name (required): Makyla Hays
 Chairperson's physical address (required): 4955 W Hurston Dr Tucson, AZ 85742
 Chairperson's mailing address (if different):
 Chairperson's email address (required): sparklesandsuns@gmail.com
 Chairperson's phone number (required): 520-904-7356
 Chairperson's employer (required): Pima Community College
 Chairperson's occupation (required): Faculty

Treasurer's Information:
 Treasurer's name (required): Melissa Bouey
 Treasurer's physical address (required): 8112 N Placita Chula, Tucson AZ 85704
 Treasurer's mailing address (if different):
 Treasurer's email address (required): melbouey@gmail.com
 Treasurer's phone number (required): 602-538-4556
 Treasurer's employer (required): Pima Community College
 Treasurer's occupation (required): Faculty

Bank or Financial Institution (do not list acct numbers):
 Bank name (required): EBVA Compass Bank
 Additional bank name (if applicable):
 Additional bank name (if applicable):

DECLARATION AND SIGNATURES:

I declare under penalty of perjury that the foregoing information is true and correct. I further declare that I: (1) consent to serve as chairperson or treasurer of the committee named herein; if applicable, (2) designate the above-named committee as my official candidate committee and authorize it to receive/make contributions/expenses on my behalf; if applicable; (3) have read the Secretary of State's campaign finance and reporting guide; (4) agree to comply with Arizona election law, including campaign finance laws codified at A.R.S. §§ 16-901 to 16-938; and (5) agree to accept all regulations and legal service of process for campaign finance purposes via the email address(es) provided herein.

Chairperson's signature: Makyla Hays Date: 9-1-2020
 Treasurer's signature: Melissa Bouey Date: 9-2-2020
 Candidate's signature (if applicable): _____ Date: _____

Arizona Secretary of State Revision 11/19/18

Exhibit E: "Educators for Pima" Election Material:

La Asociación Educativa del Colegio Comunitario
de Pima Orgullosamente Apoya a

Theresa Riel

¡Presta tu voz
y tu apoyo!

VOTA
EL 8 DE
NOVIEMBRE

FECHAS IMPORTANTES:

- 12 de octubre: Se envían papeletas para votar por correo
- 1 de noviembre: Último día para devolver papeletas para votar por correo
- 8 de noviembre: Día de la elección

MANERAS DE APOYAR A THERESA:

1. Visita el sitio web de Theresa: triel4pccboard.org
2. Apoya a Teresa. Su sitio web tiene un enlace donde puedes agregar tu nombre.
3. Dona a su campaña a través del enlace del sitio web.
4. Escribe una carta al editor del Arizona Daily Star.
5. Pide a las personas que conoces que viven en el Distrito 2 (mapa al reverso) que voten por Theresa.
6. Pide a las personas que conoces que viven en el Distrito 2 que coloquen frente a sus casas uno de los letreros de Theresa.
7. Anuncia tu apoyo en las redes sociales.

Pagado por el Comité de Acción Política de los Educadores de Pima.

ESS F

07/05/23

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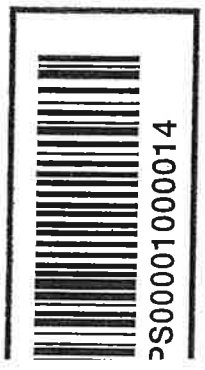


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Additional information at <http://pe.usps.com> for availability and limitations of coverage.

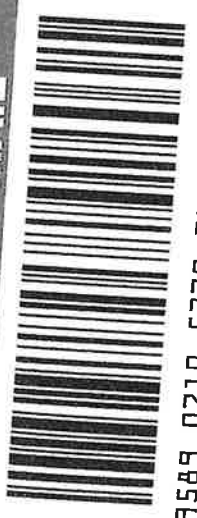
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Higher Learning Commission Board
230 South La Salle, Suite 7-500,
Chicago, Illinois
60604-1411

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