College and University Governance: Maricopa Community Colleges (Arizona)[1]

(MARCH 2019)

This report concerns issues of academic governance stemming from the actions of the governing board of the Maricopa County Community College District to terminate the "meet-and-confer" provision of the residential faculty policies manual and to mandate the later repeal of the entire manual. For four decades, the faculty and administration had utilized the meet-and-confer process as a mechanism for establishing institutional policies related to faculty matters and for making recommendations to the board on salary and budgetary matters. The residential faculty policies manual contains policies and procedures relating to the full-time faculty, including provisions defining the faculty's participation in governance.

I. The Institution and Its Governance

The Maricopa County Community College District (MCCCD) consists of ten colleges serving Maricopa County in Arizona, which includes the city of Phoenix. The district was founded as Maricopa County Junior College District in 1963 and received its current name in 1971. The constituent colleges are Chandler-Gilbert Community College, Estrella Mountain Community College, GateWay Community College, Glendale Community College, Mesa Community College, Paradise Valley Community College, Phoenix College, Rio Salado College, Scottsdale Community College, and South Mountain Community College. Some of the colleges, including Phoenix College, founded as Phoenix Junior College in 1920, predate the founding of the district. Each of the ten colleges is accredited separately by the Higher Learning Commission (HLC). According to data from the National Center for Education Statistics, the ten colleges enroll about 120,000 students and have a combined faculty consisting of about 1,400 full-time and 4,300 part-time instructors. The institution identifies its mission as providing "access to higher education for diverse students and communities," with a "focus on learning through University Transfer Education, General Education, Developmental Education, Workforce Development, Student Development Services, Continuing Education, Civic Responsibility, [and] Global Engagement."

The district's governing board consists of seven directly elected members, five representing electoral districts and two elected at large. During the period covered in this report, the board president was Mr. Laurin Hendrix, who was elected to that position in 2017. According to the district's website, Mr. Hendrix, "over the past 30 years, . . . has owned and managed businesses specializing in auto repair, manufacturing, home construction, land development, retail sales, import/exports, business consulting, legal services, and banking." From 2008 to 2010, Mr. Hendrix was a Republican member of the Arizona House of Representatives.

The chief administrative officer at the district level is the chancellor, currently Dr. Maria Harper-Marinick, who has served in that position since 2016

1. The text of this report was written in the first instance by the members of the investigating committee. In accordance with Association practice, the text was then edited by the Association's staff and, as revised with the concurrence of the investigating committee, was submitted to the Committee on College and University Governance. With that committee's approval, it was subsequently submitted to the administration, to the Maricopa Community Colleges Faculty Association, and to other persons concerned in the report. In the light of the responses received and with the editorial assistance of the Association's staff, this final report has been prepared for publication.

and who had served as the district's executive vice chancellor and provost prior to her appointment as chancellor. Each college is led by a president.

The Maricopa Community Colleges Faculty Association (FA) is a voluntary labor organization that for more than thirty-five years had represented the interests of all "residential faculty," the term used at MCCCD for full-time tenured and tenure-track faculty members. The FA is incorporated as a 501(c)(5) labor organization, and about 70 percent of the eligible faculty are members. The elected officers are a president (as of this writing, Professor John Schampel), president-elect (Professor Keith Heffner), and immediate past president (Professor Mike Mitchell). The FA has a political action committee and, in 2007, created the Maricopa Colleges Faculty Foundation.

Each college elects a faculty senate, the representative faculty body at the college level. The senate constitution and a "college plan" define the system of faculty governance at each college. The faculty senate president of each of the ten colleges represents his or her senate on the Faculty Executive Council (FEC), which is the governing body of the FA. Additional voting FEC representatives are assigned to a college in proportion to the number of FA members at that college. According to the FA constitution, a primary purpose of the FEC is "[t]o serve as the representative of the Faculty Association and College Faculty Senates to the District Administration and Governing Board in matters of shared governance." The FEC had appointed representatives on all major district committees and councils, including the Chancellor's Executive Council, Maricopa Leadership Team, Faculty Professional Growth Committee, Employee Benefits Advisory Committee, Maricopa Integrated Risk and Assessment project, and district hiring committees. Prior to the changes that are the subject of this investigation, the administration had routinely asked the FEC to provide advice or name representatives for district initiatives. It simultaneously served as the primary district-level representative faculty governance body and the governing body of the FA.

The now-repealed residential faculty policies manual (RFP) contained a range of policy statements on such topics as terms and conditions of employment; academic freedom, shared governance, and professional ethics; appointment practices; sabbatical leaves; professional growth projects; accountability and professional responsibility; grievances; mediation; intellectual property rights; office space; and mail. The RFP also contained detailed workload and reassigned time policies, including reassigned time for service as senate presidents and as officers of the FEC. In addition to these policies, the manual specified a "residential/adjunct faculty ratio," which was the maximum percentage of courses taught by adjunct faculty members at each college.

The state of Arizona has not enacted enabling legislation that permits collective bargaining by public-sector employees. Thus, although the FA is incorporated as a labor organization, it is not a collective bargaining agent in the normal sense of the term, and the RFP, in compliance with Arizona law, identified the FA as "the nonexclusive representative of the MCCCD Residential Faculty." For the past four decades, the faculty and administration negotiated changes to the RFP through the meet-and-confer process, described in the RFP as "a process of deliberation between the Chancellor and [the] Faculty Association, including Residential Faculty who are not members of the Faculty Association, for the purpose of articulating agreement regarding change with respect to responsibilities, wages, governance, benefits, and all other terms and conditions of Residential Faculty employment." The meet-and-confer process has a specific legal status in Arizona: according to a 2006 Arizona attorney general opinion, it "is merely a means to provide information to . . . management on employment and personnel issues and to aid in informed governmental decision-making." The attorney general's opinion also holds that a public entity in Arizona does not "have the power to engage in collective bargaining resulting in binding agreements because its authority to set wages and employment conditions is delegated to it by the Legislature, and this use of collective bargaining in public employment would constitute an unlawful delegation of legislative authority." Under the approved policy set forth in the RFP, the faculty and administration "recognized . . . that it is desirable, in order to establish the terms and conditions governing employment, for representatives to meet and confer, in good faith, about policies affecting responsibilities and benefits pertaining to Residential Faculty employment." Thus, meet-and-confer is described in the attorney general's opinion as a voluntary process, and both the faculty and the RFP recognized not only that the governing board had final authority in decision-making but also that meet-and-confer had been a mutually desirable process.

In practice, meet-and-confer comprised a yearlong process in which problems or issues to be resolved were identified in the fall, relevant data were collected,

and options for solutions were discussed in a "mutual gains" negotiation setting. A meet-and-confer team represented the FA during the process. The process required reciprocal understanding, trust, and transparency. Depending on the complexity of the matters under consideration, the meet-and-confer process could be lengthy because of the consensus building that it required; yet it was the consensus that marked the success of the process. Approved policies or changes to policies that resulted from the meet-and-confer process were traditionally forwarded to the chancellor, who then sent them to the governing board with a recommendation. The governing board had the final authority over the approval and adoption of those recommendations.

Again, meet-and-confer is not collective bargaining. In collective bargaining, parties are required to negotiate in good faith on certain terms and conditions of employment, and unions serve as exclusive bargaining agents on behalf of bargaining unit members. Collective bargaining is a process governed by state and local labor laws and regulations. Meet-and-confer, on the other hand, is governed by standards and rules mutually agreed to by the parties involved and set forth in policies such as the ones contained in the RFP.

In addition to the specific role of the FA in negotiating changes to the RFP, the faculty had previously participated in governance at the college and district levels in a variety of ways. According to policies set forth in the RFP, the faculty participated in decisions concerning faculty reappointment and tenure (called "appointive status") through college-level peer assistance and review committees. Faculty members serving on such committees at a given institution were appointed by the respective senate president. Also specified in the RFP was the mechanism for faculty participation in the district budget-development process, which occurred through the FEC's appointment of faculty members to serve on the Chancellor's Financial Advisory Council.

Faculty participation in district-level curricular decision-making continues to occur through the District Curriculum Committee, an entity of the district that is separate from the FEC. The voting members of the District Curriculum Committee are the vice presidents of academic affairs of each institution and faculty representatives who serve as curriculum development facilitators at each institution. Curriculum development facilitators, at least in some of the colleges, are selected jointly by vice presidents for academic affairs and senate presidents, following nominations and interviews of candidates.

II. The Actions under Investigation

The primary action under investigation in this report is the governing board's adoption of a resolution, at a February 27, 2018, meeting, that immediately terminated the meet-and-confer provision of the RFP, terminated the RFP as of October 31, 2018, and directed Chancellor Harper-Marinick to oversee the creation of a new RFP, to be presented for approval at the October meeting of the governing board. The resolution was adopted by a vote of four to three. According to the resolution, the new RFP could not contain a meet-and-confer provision and should create "a process of faculty policy development that recognizes the Governing Board as the final approval authority for all policy matters and that also recognizes the valuable contribution that faculty can provide in the development of policies that pertain to the residential faculty's essential mission of teaching and learning, not including aspects related to compensation, benefits, accountability, and organizational operations."

Additionally, last-minute amendments, which, contrary to standard board practice, were passed at their first reading, immediately eliminated any reassigned time for faculty members who served on the FEC or were involved in the meet-and-confer process and reiterated an Arizona statute that "prohibits employees of Maricopa County from engaging in fundraising activities for a Political Action Committee while on duty." The obvious intent of the resolution was to eliminate not only the forty-year-old practice of meet-and-confer but also any governance structures and practices that supported it. As both the resolution and the amendment originated with Mr. Hendrix, they have been referred to as the "Hendrix resolution" and "Hendrix amendment," respectively.

According to faculty members whom the investigating committee interviewed, prior to the February 27, 2018, resolution, governance at MCCCD had been an effective and productive process for more than forty years, albeit with the tensions inherent in a system that requires groups that may have different agendas to come together in order to find common ground.

According to both Dr. Karla Fisher, the MCCCD provost, and Ms. Leslie Kyman Cooper, the district's general counsel, who met with the investigating committee as representatives of the administration, the

governing board did not bring any concerns regarding governance to the attention of the administration prior to adopting the resolution. The provost further indicated that she had "no idea" of the basis for the board's decision. Members of the faculty also said that no problems with governance were brought to their attention and no advice was sought from the faculty. In their view, everyone was blindsided by the governing board's action.

A. The Governing Board's Rationale

Although the board's resolution itself opened with four acknowledgments—of the essential nature of the faculty to the district's mission, the value of the principle of academic freedom, the necessity of collaboration and cooperation between the administration and the faculty, and the board's own authority and responsibility in approval of faculty-related policies—none of these was offered as a rationale for abolishing meet-and-confer. The stated rationale for the resolution when it first appeared as an item on the board meeting's agenda was the following: "Streamlining and simplifying the residential faculty policy development process, while still allowing for faculty input, will allow changes to be accomplished more quickly and reduce the amount of valuable resources devoted to policy development while not inhibiting decision-making by the District's Administration or Governing Board." However, as noted above, the board had informed neither the administration nor the faculty of any concerns with respect to "the residential faculty policy development process" prior to adopting the resolution.

At a meeting in the FA office on February 8, several weeks prior to the board meeting at which the resolution was adopted, board president Hendrix confirmed to FA president Mitchell that the board intended to terminate meet-and-confer. According to faculty sources, Mr. Hendrix conveyed no rationale. Professor Mitchell attempted unsuccessfully to dissuade Mr. Hendrix, to arrange for consultation and discussion, and to slow the process. According to Professor Mitchell, Mr. Hendrix was ambiguous about the timing, suggesting that a vote on terminating meet-and-confer was several months away, and stated that the RFP would not be changed extensively. Mr. Hendrix called for a special governing board meeting on February 20 at which the faculty would have time to explain the benefits of meet-and-confer. Under board policy, the president is authorized to call a special meeting "only when it is necessary for the Board to conduct business of an immediate and unanticipated nature, with circumstances that require its attention before the next regularly scheduled Board meeting." Board policy also requires that an item have a first reading, with no action taken until the following meeting. However, the special meeting ostensibly called to solicit faculty and public opinion was also used for the first reading. As a result, instead of a month, only one week passed between the first reading and board action on the resolution.

The meeting was open to the public, and the account that follows is based on reports from faculty members who attended it. At the meeting, Mr. Hendrix proposed what he called the "Hendrix amendment," described above, to his "Hendrix resolution." The only speaker on the Hendrix amendment was Mr. Hendrix himself. Speaking in support of his amendment, Mr. Hendrix read from two email messages. He read one paragraph from a message sent by the chair of the FA's political action committee announcing plans to raise money "to support candidates for the governing board who share our student-centered values of higher education." He then read from another email message identified only as being from an FA member, who wrote to colleagues that "[t]he board and chancellor have unilaterally decided to do away with the Residential Faculty Policies (RFP)—this means they can revoke our tenure, dismantle our Faculty Association (our union), and we no longer have shared governance."

Mr. Hendrix asserted that the first email message was a violation of an Arizona statute that governs "use of county resources or employees to influence elections." With regard to the second message, Mr. Hendrix conflated the sender's referring to the FA as "our union" with the FA's actually *being* a collective bargaining agent, which would be illegal in Arizona. In short, Mr. Hendrix used the email messages to convey the impression that faculty members had engaged in activities that were illegal, or at least improper, thus necessitating the "Hendrix amendment."

In the investigating committee's view, however, Mr. Hendrix's statements regarding the two email messages mischaracterized both the law and the facts. With regard to the first message, documentation provided to the investigating committee shows that no "county resources" had been used, as the sender of the message and its recipients used their personal email accounts. Either deliberately or inadvertently, Mr. Hendrix provided incomplete or inaccurate

information about the email accounts employed. Moreover, when reading the statute, Mr. Hendrix omitted the following provision: "Nothing contained in this section shall be construed as denying the civil and political liberties of any employee as guaranteed by the United States and Arizona Constitutions."[2] Regarding the second message, as this report has noted, the FA, contrary to Mr. Hendrix's implication, is not a union in the normal sense, and meet-and-confer is not collective bargaining, as explicitly stated in both the RFP and the Arizona attorney general's 2006 opinion on meet-and-confer. In suggesting that meet-and-confer is in fact illegal collective bargaining, Mr. Hendrix was either seriously misinformed or dissembling.

In short, the board president's stated justifications for eliminating meet-and-confer were based on incorrect legal premises and incorrect interpretations of Arizona law. The FA is not an exclusive bargaining agent, and the FA does not engage in collective bargaining. As late as April 2018, Ms. Johanna Haver, a member of the governing board, repeated this mischaracterization in an op-ed in the *Arizona Republic*: "[Meet-and-confer] imposes collective bargaining on administrative decisions." This statement is inaccurate according to both the long-standing terms of the RFP and state law.

Other rationales for eliminating meet-and-confer were offered during the special governing board meeting on February 20. For example, Ms. Haver suggested, anecdotally, that there was a problem with faculty "accountability." Ms. Tracy Livingston, another board member, anecdotally referred to another setting in which she said meet-and-confer "did not work." Without providing a definition of the term, Ms. Livingston also spoke negatively of a "faculty-centric" culture. Mr. Hendrix added that he objected to the negative characterizations of the resolution that he had heard or seen in the media.

Significantly, however, no one interviewed by the investigating committee could point to an instance in which a member of the governing board identified demonstrable and documented problems that the resolution was designed to address, and the record does not contain any such instance. Nor did the board explain in any detail how the resolution would improve teaching and learning or how it would support the mission of MCCCD.

B. The Darbut Report as Motivation

A document titled "Organizational Change at Maricopa Community Colleges: A Position Paper" that circulated among MCCCD faculty and staff members in April 2017 appears to have served as a primary source for the board's resolution. This self-described "blueprint to transform the institution" was written by Mr. Jeffrey N. Darbut, a vice president of administrative services at Mesa Community College, one of the ten MCCCD institutions. In the foreword, Mr. Darbut explains that the many estimates presented in his report, such as the savings that would accrue as a result of the proposed course of action, were "directionally correct" and that he had consulted faculty and staff members for the report "over a beer." The foreword ends by appealing to the chancellor and governing board and emphasizing that they have the power to implement his "transformational blueprint." Following an analysis of what he identifies as the MCCCD's strengths, weaknesses, opportunities, and threats, Mr. Darbut enumerates twenty-nine initiatives he says will "transform" the institution.

The report first suggests replacing the current mission statement with one that is "more focused," thereby eliminating between $3 million and $10 million in costs associated with "unimportant" programs and initiatives. The report proposes the following as a new MCCCD mission statement: "prepar[ing] individuals to succeed in life by providing affordable access to high quality career education delivered in an innovative learning environment."

The similarities between the February 27 governing board resolution and certain initiatives proposed in the Darbut report are obvious. One recommendation observes that "key to the creation of a student-centric organization is the repeal of the RFP manual and replacing it." The report does not explain what makes an organization "student-centric" or how repealing the RFP would achieve this goal. Additional recommendations include converting faculty appointments to "'at-will' employment contract[s]," because "tenure is no longer in the best interests of students," and eliminating the "'shared governance' clause," because "there is no generally accepted definition [of shared governance], which

2. It should be noted that the FA political action committee is a "non-partisan, non-ideological organization committed to supporting the Maricopa Community Colleges' ongoing mission to provide high-quality post-secondary education to support the social and economic development of Maricopa County and the state of Arizona" and that it has certain rights, including the right to endorse candidates in local, county, or state elections when there is a specific interest for the FA.

leads to conflict." The report adds, "Faculty should participate with management, but not initiate or stop initiatives." One recommendation that faculty found to be a particularly egregious departure from AAUP-supported academic governance principles was to "create a curriculum process that is led by management," a process in which the "faculty participates" but which the faculty does not "direct."

Many of the other twenty-seven initiatives in the Darbut report were subsequently adopted by the board as well, including the termination of some athletic programs and of a meet-and-confer-type process for staff. Based on these outcomes and the circumstances discussed in this report, the investigating committee concludes that Mr. Darbut's self-described "transformational blueprint" either generated or exacerbated concerns on the part of various governing board members, which over the course of the following year led to passage of the board's February 27, 2018, resolution.

Why would a vice president of administrative services at one of the colleges take it upon himself to draft a "transformational blueprint"? Why would a document created by a college-level vice president be driving the actions of the district governing board? Who authorized the document and to whom had it been sent? Faculty members were asking these and other questions in early 2017. On April 20, 2017, the president of Mesa Community College, where Mr. Darbut is employed, apparently felt it necessary to send a message to the faculty and staff disavowing the report, writing, "This is not the Chancellor's nor my report or plan. I did not commission, authorize, endorse, or approve the report." When interviewed by the investigating committee, Provost Fisher was unable to clarify completely how and when the Darbut report reached the administration, and the general counsel reported only that a recent board resolution allows anyone to "talk to any Governing Board member about anything."

As each of the ten college faculty senates was discussing the Darbut report and the process by which it was created and distributed, Mr. Darbut emailed Ms. Jean McGrath, a member of the governing board, asking her to clarify that she had requested the report from him. (The FA obtained the message through an open records request.) McGrath acknowledged that she had indeed done so in an April 28, 2017, email message to Chancellor Harper-Marinick. Thus, Mr. Darbut had produced the report at the behest of a member of the governing board and, in doing so, had bypassed the district-level administration, including the chief academic officer and the chancellor. The genesis of the report was later confirmed by Ms. Haver in an email message to the faculty. She defended Ms. McGrath's action in the following terms:

> We still live in a free country. A board member was impressed with Mr. Darbut's ideas for improving the district while in a conversation with him several months ago. Therefore, she requested that he write down his suggestions and send them to her. He complied. When she told me about his manuscript, I wrote to him myself through the district email server, although I had not yet met him, and asked him to send me a copy. He did that. I do not know whether anyone else read his manuscript. I found it interesting at the time and then put it aside.

Ms. Haver's downplaying the significance of Ms. McGrath's role in soliciting the Darbut report is contradicted by other communications between Mr. Darbut and Ms. McGrath in 2017, also obtained by the FA through an open-records request. For example, on August 24, 2017, Mr. Darbut forwarded to Ms. McGrath an email message originally sent by the classified staff council president to all classified staff informing them that the governing board eliminated all reassigned time for classified staff council officers and representatives. She commented, "We hope to do the same for the professors union. We plan to wait a bit though. Right now we are going after meet and confer." She added, "Sometimes it is fun to be the most unpopular person on campus."

C. Political Aspirations of Board Members as Motivation

As the previously quoted email message, as well as other previously quoted correspondence, suggests, the actions of key board members appear to have been politically motivated. On February 13, 2018, Mr. Darbut forwarded to Ms. McGrath an email message that the FA president had sent to faculty members alerting them to the fact that the governing board president had confirmed that the board would consider a vote to end the meet-and-confer process. In the message, the FA president stated his concerns that no prior consultation with the faculty had taken place and that the action appeared to have been motivated by partisan ideology. He further engaged FA members in mobilization and communication efforts to challenge the board's actions. Ms. McGrath responded

to Mr. Darbut with thanks, stating, "I talk about this when I am addressing groups and I am getting applauded for eliminating a public employees' union."

It should be noted that during this period, Ms. McGrath, a former Republican member of the Arizona House of Representatives, was running for reelection to the governing board and that Mr. Darbut was her campaign treasurer. Under a "Keeping Promises" link on her campaign website, Ms. McGrath listed as a fulfilled promise, "2016 – sponsored a study, 'Organizational Change at Maricopa Colleges,' to improve student graduation rates and promote cost efficiencies." Also, under the "Keeping Promises" link, Ms. McGrath lists "2018 – voted with majority to eliminate collective bargaining with the faculty union."

In another instance, Mr. Hendrix expressed antipathy toward the FA in response to an email message he had received from FA president Mike Mitchell, who had asked about the order of items on the governing board's February 27 meeting agenda. In his response, dated February 22, Mr. Hendrix wrote,

> The fear-mongering with the distribution of falsehoods might be beneficial to increasing union membership and for collecting donations but I don't think that it is or will be beneficial to the individual faculty membership. At this point, this email is between you and I. We both know the truth and the facts. *I am disappointed that the tax payers pay full time people to disseminate nonfactual information to the faculty.* Those individuals are intended to be a conduit of factual information and opinions between the faculty and the administration. It is my assumption that the faculty association will take credit for solving or lessening the crisis that it dreamed up. A clear indication that most problems can be lessened or solved with more union membership and more donations to the union. I assume that your leadership has thought this through thoroughly. (Emphasis added.)

The italicized statement from this email message, coupled with the remarks made by Mr. Hendrix at the two February governing board meetings about Maricopa's "paying individuals to fundraise," connect the board's elimination of paid reassigned time for various FA members with those members' speech, of which, to judge from Mr. Hendrix's February message quoted above, Mr. Hendrix disapproved. Mr. Hendrix apparently alluded to the political aspirations of certain board members in his February 8 meeting with FA president Mike Mitchell. The circumstances strongly suggest that the last minute "Hendrix amendment" immediately revoking all paid reassigned time was retaliatory.

Further political motivations seem evident in email messages between Mr. Hendrix and the chancellor, also obtained through FA open-records requests. On January 28, 2018, Mr. Hendrix wrote to Chancellor Harper-Marinick, "State Republican convention was yesterday. This is election year. Republicans are impressed with the conservative direction of MCCCD. Frankly, I was surprised by the comments." He continued, "Let's talk tomorrow but I'd like to 1) consider a letter from the board or district to the governor thanking him for considering bills but making clear that Maricopa does not need state funds at this time, 2) remove meet and confer immediately, 3) have a draft of a new faculty manual in 30 days with a goal of final approval in 60 days." In the next paragraph, he remarked, "Until I attended the county and state conventions, I didn't realize how many people are watching and paying attention to us. People are beginning to believe that MCCCD may be moving in a moderate as opposed to a progressive direction."

A public-records request revealed that on February 19, 2018, Mr. Hendrix filed to be a candidate in the Republican primary for the Arizona House of Representatives. Mr. Hendrix, as noted earlier, had served in the Arizona House of Representatives from 2009 to 2011; he lost the Republican primary in 2011. The timing of his filing, sufficiently close to the governing board's actions that are the subject of this report, points to political motivations for his resolution and amendment.[3]

III. Events Following the Abolition of Meet-and-Confer

As a result of the governing board's actions on February 27, 2018, a system of governance at MCCCD that provided a meaningful role to the faculty in matters other than teaching and learning at the district level ceased to exist.

A. The Immediate Aftermath

Prior to the termination of meet-and-confer, the FEC—the primary representative faculty governance

3. In May, it was reported that although Mr. Hendrix had collected enough signatures to run for either the Arizona House or the Arizona Senate, he had decided not to do so.

body—had seats on every major committee and council, including the Chancellor's Executive Council and major district hiring committees, and met monthly with the chancellor and all of the vice chancellors. Prior to February 27, the administration would have asked the FEC to represent the faculty on any important initiative. All of these structures for faculty participation in institutional governance were eliminated in one fell swoop. FEC leadership reported that, after a final meeting with the chancellor and other district administrative leaders on the morning of February 28, the district administration suspended all formal communication with the FEC. The governing board's action had abruptly and effectively silenced the official, formal representative faculty voice.

Additionally, on February 28, Provost Fisher sent an email message to the ten college presidents, informing them as follows: "Per the resolution, Senate Presidents and Representatives must be dutiful in avoiding any FEC- or Faculty Association-related work or conversations during business hours." When asked by the investigating committee about this apparent prohibition on governance-related speech in the workplace in evident violation of academic freedom, the provost described her February 28 email message as having been sent in the "turbulent wake" of the resolution's passage and as having been intended to provide a "foursquare" to the faculty, apparently meaning that if faculty members observed these guidelines, they would be safe.

The provost's characterization of her email message is at odds with the faculty's understanding. Faculty members told the investigating committee that they considered the prohibition on FEC- or FA-related work or conversations "during business hours" as their "current operational directive." Moreover, the directive has not been rescinded, nor has the administration made any attempt at clarification. As a result, faculty members say that they are being extremely cautious about using district resources for FA business—including district computers, district email accounts, or district wireless networks. They describe sending FA-related email messages only outside "hours of accountability," that is, before 6:00 a.m. or after 3:55 p.m. One faculty member reported carrying two phones at all times in order to avoid running afoul of the prohibition against using district resources for FA business. Thus, the directive appears to have had a chilling effect on speech regarding matters of institutional policy or action.

B. The Faculty Academic Senate

With the role of the FEC in institutional governance having been eliminated and the RFP scheduled to be terminated by October 31, 2018, the administration began considering replacements for these bodies, eventually creating a new body called the Faculty Academic Senate (FAS). The circumstances have posed a difficult dilemma for faculty members. They can refuse to participate in a process they consider illegitimate and face the prospect of having new policies and procedures unilaterally imposed on them, or, in order to minimize damage and maintain some sense of control over or knowledge of the process, they can participate in it, arguably making them complicit in eroding the faculty's long-standing role in institutional governance.

The faculty, collectively, has been pursuing two tracks: participating in task forces and new committees while continuing to work toward having the governing board's resolution rescinded. The faculty senates of each of the ten colleges adopted resolutions opposing the board's actions and asking for the immediate reestablishment of meet-and-confer. The FEC, through its attorney, filed a notice of claim against the governing board and the chancellor, which is required by state law before a lawsuit against the state or one of its subdivisions can be filed. Faculty members also filed complaints with the Higher Learning Commission, the institution's regional accrediting agency.

Chancellor Harper-Marinick, in reply to the HLC's request for the administration's response to these complaints, wrote on March 20 to inform the accreditor of the creation of the district-level FAS, on which the ten faculty senate presidents would serve. She went on to describe the FAS as "work[ing] alongside the other district councils, effectively preserving [the] faculty's role in participatory governance while extricating or de-coupling faculty association business from senate work." However, the administration had not informed the faculty of the establishment of this body. The faculty first learned of the FAS only on March 30, when Provost Fisher told the ten faculty senate presidents in an email message that the FAS would "ensure your voices are heard at the district level."

Faculty members whom the investigating committee interviewed stated that while they believed that the FAS lacked legitimacy because it was unilaterally established by the administration, they nevertheless were participating in its creation, since it served as the only available mechanism for faculty involvement in district-level governance. They described it as "a seat

at a table, but not shared governance." The process by which governance documents for the FAS were being created and approved, like the process described below for replacing the RFP, was improvised—producing confusion and conflict.

C. The Process for Replacing the RFP

The language of the governing board's resolution directing the chancellor to oversee the creation of a new RFP imposed certain conditions. In addition to eliminating meet-and-confer, the resolution created a new process for faculty policy development, which recognized the board as the final authority; acknowledged the valuable contribution the faculty provides in the essential mission of teaching and learning; and excluded the faculty from involvement in decisions related to compensation, benefits, accountability, and organizational operations. With meet-and-confer unilaterally and abruptly terminated, the process to create a replacement for the RFP was completely unmoored from any existing procedures: faculty members reported that the administration created groups unilaterally and called them together without a clear charge or even an agenda, and the work done by these groups often vanished without any follow-up.

As a first step in the process for replacing the RFP, Chancellor Harper-Marinick unilaterally created an ad hoc committee. Without specifying a nomination procedure, she asked the college presidents, rather than the faculty senates, to submit names of potential faculty representatives to serve on the committee. She then selected faculty representatives from the presidents' nominees; added administration representatives, including staff members from the legal and human resources departments; and appointed Provost Fisher as chair. The chancellor reportedly excluded any members of the former meet-and-confer team from service on the ad hoc committee. Faculty members stated that they believed that the provost was working in good faith with them, despite the improvisatory nature of the process.

According to faculty members, the chancellor did not provide a clear charge to the newly formed committee. At its first meeting on March 28, with no agenda having been provided, faculty members inquired about the committee's purpose. Some faculty members assumed that they would be creating the new RFP, but they learned that their task was instead to create a process to replace meet-and-confer. Once that process was established, the administration informed them, a new group would convene to employ the new process to create a replacement for the RFP. Although the committee took up its assigned task, Provost Fisher informed committee members at their second meeting that it would be their last. Faculty representatives on the committee reported to the investigating committee that by this point the group had managed to agree only on a "common mental model," much of it existing on a whiteboard, which the provost indicated she would forward to the chancellor.

Despite the provost's announcement, the committee did meet at least two more times, and at a subsequent meeting, faculty members saw—for the first time and only as it was projected onto a screen—a flow chart for the process of policy development that the administration would present to the governing board. The provost explained that the chart was deliberately vague in order to prevent the board from micromanaging the process and that once the board approved the flow chart, the committee would reconvene and fill in the blanks. When faculty members objected that many significant items from the "common mental model" did not appear on the flow chart, the provost offered only the explanation that "the chancellor didn't approve." The board subsequently approved the flow chart; the committee never saw it again.

Provost Fisher invited the ad hoc committee to a final meeting on July 24, 2018, ostensibly to "close the loop" by letting committee members know how the plan had moved forward. During earlier meetings, one of the four subgroups of the committee had begun working on new language for the RFP. The faculty representatives on the committee did not believe that the subgroup should have been working on a new RFP, since such an undertaking was decidedly not a charge of the committee. So they were surprised to learn that the administration had sent the subgroup's document, without its having been approved by the entire committee, "as a starting point" to the human resources and legal departments and that the two departments had returned a revised version. The administration informed the faculty representatives that it was now their turn to review the document by August 1, when the administration planned to return it to the two departments.

The human resources and legal departments had made significant changes to the document. The board's resolution had called for excluding from the faculty's purview "aspects related to compensation, benefits, accountability, and organization operations." The human resources and legal departments, however, interpreted this language to mean that the new RFP

could include items related only to teaching and learning, which resulted in a dramatic restriction of subjects to be allowed in the RFP—a turn of events that alarmed the faculty representatives. In addition, the work done by the faculty members on the ad hoc committee was never acknowledged or incorporated into the final document. When in September the administration established a Faculty Academic Policy Recommendation Team as a replacement for meet-and-confer, that group received a document described as "the RFP from HR and Legal."

In an October 12 email message, Provost Fisher attempted to address faculty objections to the administration's interpretation of the governing board's resolution. She wrote,

> We are well aware that these are not necessarily the only academic policies in existence or eventually needed. . . . The process developed by the Ad Hoc Task Force and approved by the Board in June says that new faculty policies and policy revisions are to be recommended to the Team by any Senior Council. Faculty Academic Senate has provided a list of other policies they want the Team to consider, which I believe are derived from the original work by the Ad Hoc Task Force. Other senior councils may also have policies to recommend to the Team. We will have time prior to June 30 (end of the extended RFP) to work on additional policies once we complete the policies faculty and administrators agree must be included.

It appears, therefore, that the administration had removed four decades worth of mutually agreed-upon policies and that it would consider, on a case-by-case basis, whether to restore a discarded policy only if someone brought it to the administration's attention. The flow chart attributed to the ad hoc committee would be used to develop policies on matters related only to the "residential faculty's essential mission of teaching and learning." On these matters alone, the governing board would solicit faculty opinion prior to the board's decision. On all other matters, a board decision would occur after "comment and notice opportunities to stakeholders, in the same manner as staff." Of particular note are the items that do not relate to teaching and learning, since many of these are matters for which the faculty should have primary responsibility under principles of academic governance supported by the AAUP. Yet at MCCCD, the faculty will have only comment and notice opportunities on recruitment and selection of faculty members, faculty load reassignments, visitation of faculty members during class, faculty evaluation plans, teaching load, suspension of a faculty member, credit for prior experience, assessment, ratio of full-time to adjunct faculty members, evaluation of administrators, and participation in the budget process.

The reality of how the board-mandated process of replacing the RFP is developing is starkly at odds with comments made by Ms. Haver less than twenty-four hours prior to the adoption of the board resolution. On the morning of February 27, a faculty member emailed her to comment on the value of the RFP as a document that articulates agreed-upon policy and to point out that the board already has ultimate approval authority over changes to the RFP, implying that a unilateral rejection of these mutual agreements would be completely unwarranted. Ms. Haver responded almost immediately, writing, "The change [to the RFP] would only alter Meet and Confer—in that the chancellor would be the ultimate person to make a decision. In other words, the faculty association would be consulted but no longer be allowed to veto what [the chancellor] is trying to accomplish. *90% of the RFP would stay the same.*" (Emphasis added.) On that same morning, responding to another faculty member with a similar message, Mrs. Haver wrote, "Only about 10% of the RFP will change and that is the Meet and Confer element ONLY. The rest will remain the same."

IV. Issues of Concern

In the view of the investigating committee, the actions described above involve serious departures from AAUP-recommended principles and standards.

A. The Abolition of Structures of Faculty Governance

Widely accepted principles and standards of academic governance are set forth in the *Statement on Government of Colleges and Universities*, jointly formulated in 1966 by the AAUP, the American Council on Education, and the Association of Governing Boards of Universities and Colleges. According to the *Statement on Government*, "[a]gencies for faculty participation in the government of the college or university should be established at each level where faculty responsibility is present. An agency should exist for the presentation of the views of the whole faculty. The structure and procedures for faculty participation should be designed, approved, and established by joint

action of the components of the institution." With the passage of the February 27, 2018, resolution, the MCCCD governing board abruptly and unilaterally abolished most of the "structures and procedures for faculty participation" in the institution's governance system, thereby silencing the official representative faculty voice.[4]

The governing board's resolution obliterated MCCCD's most important structures of faculty governance before replacement structures had even been discussed. As a result, attempts by the administration and the faculty to work together to determine a way to carry on the institution's mission proceeded with no clarity and little direction. Four decades of collegial joint effort that had led to exemplary procedures of genuine and effective shared governance were set aside. As noted earlier in this report, the most credible explanation for the board's actions is partisan ideology and political ambition on the part of individual board members. The harm done to the institution by this action has yet to be fully realized, since the current RFP has been extended through June 30, 2019, but the effective removal of institutionalized faculty participation from all decision-making not regarded by the human resources and legal departments as wholly related to "teaching and learning" will undoubtedly result in MCCCD's having difficulty attracting and retaining highly qualified faculty members, with inevitable adverse effects on student learning.

Events that have unfolded in the aftermath of the resolution's passage are even more troubling. The unsystematic and even chaotic attempt to draft a new RFP appears to be shifting into an attempt to isolate items defined by the administration as "teaching and learning" as the only areas of institutional decision-making in which the faculty will be permitted to participate, in contravention of widely observed governance standards. As the *Statement on Government* asserts, "the variety and complexity of tasks performed by an institution of higher learning produce an inescapable interdependence among governing board, administration, faculty, and others. This interdependence demands full opportunity for joint planning and effort." While, given institutional differences, this "joint planning and effort" can manifest itself in a variety of ways, "two general conclusions . . . seem clearly warranted." First, "important areas of action involve at one time or another the initiating capacity and decision-making participation of all the institutional components." In other words, no important institutional decisions should be made without meaningful faculty involvement. Second, "differences in the weight of each voice, from one point to the next, should be determined by reference to the responsibility of each component for the particular matter at hand." Because the faculty, as the *Statement* goes on to explain, has "primary responsibility" for all matters related to the academic mission of the institution, the faculty should play a primary role in all decisions relating to academic matters.

The replacement for the RFP envisioned by MCCCD's legal and human resources offices divides policies into two categories: those defined by the legal and human resources department as related to teaching and learning and those defined by the two departments as not related to teaching and learning. Though the board has final approval over the policies in the first category, it "is expressly allowing faculty input [in those areas], prior to its approval." Policies in the second category are "board approved after comment and notice opportunities to stakeholders, in the same manner as the staff." These constraints prevent the faculty from fulfilling its "primary responsibility," as defined by the *Statement on Government*, for decisions related to "curriculum, subject matter and methods of instruction, research, faculty status, and those aspects of student life which relate to the educational process." They also prevent the faculty from participating though consultation, not mere notification, in other important areas of institutional decision-making for which the faculty does not bear primary responsibility but in which it would customarily be meaningfully involved.

The outlook for shared governance at MCCCD is not promising. Administrators seem emboldened to act unilaterally, dismissing the faculty's expertise and appropriate decision-making role. Faculty members whom the investigating committee interviewed reported that one college president directed the faculty to remove all mention of the FA from the college plan. Faculty members also reported that the district administration was aligning the college plans for the ten colleges in the system, and that this initiative was well under way and taking place without the faculty's knowledge, much less its participation.

4. Because the FA is incorporated as an independent entity, the board's action did not abolish the FEC; it excluded the FEC from the governance structure. As a result, this case differs from those AAUP-investigated governance cases in which the faculty senates were actually abolished—Idaho State University and Rensselaer Polytechnic Institute.

B. The Governing Board's Failure to Exercise Self-Limitation

According to the *Statement on Government*, "[t]he governing board of an institution of higher education, while maintaining a general overview, entrusts the conduct of the administration to the administrative officers—the president and the deans—and the conduct of teaching and research to the faculty. The board should undertake appropriate self-limitation."

The investigating committee found abundant evidence that the board, in adopting the February 27 resolution to eliminate the meet-and-confer process and replace the RFP, failed to exercise "appropriate self-limitation," even if it did act within its legal rights as the body with ultimate oversight authority. Over the last four decades, prior governing boards of MCCCD have delegated administrative matters to the administration and matters that fall under the faculty's purview to the faculty. This practice became embodied in the policies and procedures of the RFP. In representing the FA as a collective bargaining agent and insisting, incorrectly, that this decades-old organization was not a legally cognizable entity, the current governing board unilaterally introduced unnecessary and perhaps irreparable chaos and harm into an effectively functioning system.

A governing board has a special obligation to sustain and enhance the institution. As the *Statement on Government* asserts, "[w]here public law calls for the election of governing board members, means should be found to ensure the nomination of fully suited persons, and the electorate should be informed of the relevant criteria for board membership." This standard raises the question of how and by whom intervention can take place if a board acts irresponsibly. Guidance and instruction in best practices for governing boards are available from the Association of Governing Boards as well as from the American Association of Community Colleges. Even though many members of the MCCCD governing board appear to have limited experience in higher education, the board has, to the best of the investigating committee's knowledge, not chosen to pursue any kind training for its members. In a letter of November 28 to Chancellor Harper-Marinick, the HLC responded to the complaints it had received related to the governing board's resolution and raised questions "as to the Board's commitment to working to meet the expectations outlined in the Criteria for Accreditation." The HLC's letter also admonished both the chancellor and the board regarding their proper governance roles:

> It is critical to remember that it is not the role of the Board members to engage in operations at each of the system's institutions. That is why you are the Chancellor and each of the colleges have presidents, administrators, faculty, and staff. There is a marked difference between governance oversight and operations. It is essential to maintain this clear demarcation.
>
> Moreover, a strong board acts as a unified group of leaders, displacing individual agendas and actions. It can only lead to confusion and a loss of credibility for the institution if individual trustees advance agendas with legislators or the public that conflict with overall board decisions. . . . Board governance that is not unified and supportive of the leadership creates distractions that may negatively impact students—your most important stakeholders. HLC encourages you to continue board training and implement measurable efforts to overcome any ongoing issues in this regard.

The letter informed Chancellor Harper-Marinick that, given the HLC's concerns, the accreditor would "conduct a special area of focus as part of its next Comprehensive Evaluation of an accredited MCCCD institution."

C. The Administration's Dereliction of Duty

According to the *Statement on Government*, it is incumbent upon the chief administrative officer of the institution, which in the case of MCCCD is the chancellor, "to ensure that faculty views, including dissenting views, are presented to the board in those areas and on those issues where responsibilities are shared. Similarly, the faculty should be informed of the views of the board and the administration on like issues." At times, the chancellor is a translator. The board's actions, which should come from its perspective of supporting and improving the educational institution and its reputation, must be explained to the faculty. Very often, the faculty's perspective and, almost always, the differences between a business and a nonprofit higher education enterprise must be explained to board members. In the matters under investigation at MCCCD, the administration's silence was deafening. As a result, this committee regards the MCCCD administration as entirely complicit in the demise of academic governance at the institution. At the February 27 meeting, just prior to the vote on the resolution, the governing board called upon

Chancellor Harper-Marinick for comment. She replied that it would be "inappropriate to comment on the resolution" and then went on to read a prepared statement on her commitment to shared governance and the faculty.

Chancellor Harper-Marinick publicly chose not to provide an opinion on a resolution that would effectively eliminate faculty governance at MCCCD. In the view of this committee, that decision was a profound dereliction of her duty as chief administrative officer of an educational institution. It was her responsibility to inform the board of the implications of its actions and, in particular, of how its actions would affect the district. Moreover, given that board meetings are public forums—broadcast live and available for viewing for the entire community—it was her obligation to provide the public with her views regarding the board's actions. The most credible explanation for her inaction is that she feared that speaking out against the board would jeopardize her position. She may have felt particularly vulnerable under this governing board, since it was reported that one of its first major actions under Mr. Hendrix, in June 2017, was to rescind the authority delegated to the chancellor to approve changes to the RFP. The fact remains, however, that the chancellor had the responsibility, under principles and standards of academic governance, to help educate the board, and the institution depended on her, as chief administrative officer, to fulfill that responsibility with honesty, integrity, and courage. Chancellor Harper-Marinick had served in the administration at MCCCD for nearly twenty-five years. Surely, her opinions were valuable and informed—and vitally necessary for the board to fulfill its oversight responsibilities. By choosing not to participate, she gave the board the impression that they had nothing to learn as members of the MCCCD governing board. This seems very far from the truth.

In addition to the impact on the faculty, it is worth noting that the board's actions will severely constrain the administration's ability to carry out its duties. Approved policies in the RFP and the meet-and-confer process were the means by which the administration worked collegially with the faculty and thus benefited the entire institution.

Chancellor Harper-Marinick professed her commitment to the faculty and to shared governance numerous times following the actions that are the subject of this report. However, her words were never followed by concrete actions and were usually accompanied by the assertion that the board acted within its rights. In her March 20, 2018, letter responding to the HLC's expression of concern, the chancellor also affirmed her commitment to "participatory governance," but the only concrete evidence she provided for this commitment was how quickly she found alternative duties for the faculty members whose paid reassigned time was abruptly revoked. In an August 20 letter responding to the AAUP, General Counsel Cooper wrote that Chancellor Harper-Marinick has "demonstrated her support for shared governance." This investigation found scant evidence of such support.

D. The Exclusion of Certain Faculty Members from Governance

The AAUP's position on the right of all faculty members to participate in academic governance is stated succinctly in a 2012 report, *The Inclusion in Governance of Faculty Members Holding Contingent Appointments*. Among its six recommendations is the following: "Eligibility for voting and holding office in institutional governance bodies should be the same for all faculty regardless of full- or part-time status."

During the investigation, the committee became aware that the governance system, even before the adoption of the governing board's resolution, did not allow for full participation of all faculty members in governance and thus did not fully comport with AAUP-supported governance standards. As noted earlier in this report, membership on the FEC is restricted to members of the FA, and only full-time tenure-track and tenured faculty members ("residential faculty") are eligible to join the FA. It is important to point out that the exclusion from participation in governance of part-time faculty members and of residential faculty members who are not members of the FA was not originally cited by the governing board as a rationale for its actions, and any indications that this issue was a matter of concern to the board or the administration only became evident long after the board meeting on February 27. Although the exclusion of part-time faculty members and of non-FA residential faculty members from governance is thus not directly related to the actions under investigation by this committee, it represents an important departure from AAUP-supported standards.

The opportunity for part-time faculty members to participate fully in governance differs among the colleges in the district. The investigating committee was

informed that, on one campus with an administration open to organized adjunct faculty members, adjunct faculty activists were able to form a committee to address local adjunct faculty concerns. Adjunct faculty members who spoke with the investigating committee expressed disappointment that residential faculty members appear to insist on maintaining a division between the groups. Most disconcerting to the investigating committee were reports that the adjunct faculty members' primary source of information about institutional activities was the newspaper. According to information provided to the investigating committee, faculty members on contingent appointments oppose the actions of the governing board as being completely antithetical to the mission of the institution, but they also report that the residential faculty have kept them in the dark regarding governance issues, failed to consult them, and neglected to inform them about the residential faculty's positions. In the aftermath of the board's resolutions, the adjunct faculty continues to be completely excluded from membership on the FAS and the Faculty Academic Policy Recommendation Team.

E. The Climate for Academic Freedom

It is difficult to make a general assessment of the climate for academic freedom at MCCCD, since there are ten distinct and separately accredited colleges in the system. As many faculty members from various colleges noted to the investigating committee, the climate for academic freedom and shared governance depends on the individual college. At the district level, however, academic freedom is severely constrained. Faculty members are still operating under the provost's directive to avoid "any FEC- or Faculty Association related-work or conversations during business hours." Restricting conversations about governance is antithetical to academic freedom and suppresses any semblance of faculty governance.

Also, at the district level, an exchange of email messages between two members of the governing board provides an example of at least some board members' indifference to principles of academic freedom. In this exchange, obtained by the FA through an open-records request, one board member expressed concern about an academic field trip called "Cultural Bridges," a four-night tour over spring break regularly led by a faculty member and usually involving about fifty students. That board member was particularly troubled that one of the speakers on the tour, whose topic was Islamophobia, represented the Council on American-Islamic Relations, a nonprofit civil rights and advocacy group. The board member suggested in the exchange that in the future the board should review and approve "trips such as this," writing, "We could accomplish more if we didn't waste money on liberal causes such as [this] trip." The second board member, in response, noted that her thirteen-year-old grandson had a Muslim teacher and offered to consult the boy in order to "ask him how that has worked out." The first board member vowed not to approve funding for the college that hosted the field trip until the tour was no longer offered. Reportedly, this vow was honored.

V. Conclusions

1. In terminating the meet-and-confer process and repealing the residential faculty policies manual, the governing board of the Maricopa County Community College District acted in disregard of the *Statement on Government of Colleges and Universities*, which provides that "the structure and procedures for faculty participation" in institutional governance "should be designed, approved, and established by joint action of the components of the institution."
2. By removing robust governance structures with no plan for replacement, the MCCCD board plunged the conduct of governance at the institution into chaos. While this chaos was entirely the result of the ill-considered board actions, the senior administration simultaneously abdicated its appropriate leadership role by failing to engage the issues publicly and by passively acquiescing in the board's unwarranted actions.
3. The investigating committee was unable to find any evidence to suggest that the board acted in the best interests of the institution. Instead, the evidence strongly suggests that the board's intervention was an engineered performance of political theater motivated by partisan ideology and political ambition. The governing board's resolution should be seen for what it is: union busting—or more precisely, deliberately mischaracterizing the Faculty Association as a collective bargaining agent and then destroying it and, with it, all vestiges of a once-effective system of shared academic governance at MCCCD.

IRENE T. MULVEY (Mathematics)
Fairfield University, *chair*

BETHANY CARSON (English)
Santa Fe Community College

EMILY M. S. HOUH (Law)
University of Cincinnati

Investigating Committee

The Committee on College and University Governance has by vote authorized publication of this report on the AAUP website and in the *Bulletin of the American Association of University Professors*.

Chair: **MICHAEL DECESARE** (Sociology), Merrimack College

Members: **RACHEL IDA BUFF** (History), University of Wisconsin–Milwaukee; **ALLISON BUSKIRK-COHEN** (Psychology), Delaware Valley University; **PHILIP COLE** (Physics), Lamar University; **RUBEN GARCIA** (Law), University of Nevada, Las Vegas; **PIPPA HOLLOWAY** (History), Middle Tennessee State University; **SUSAN JAROSI** (Art History and Women's and Gender Studies), Hamilton College; **JULIA SCHLECK** (English), University of Nebraska–Lincoln; **RUDY H. FICHTENBAUM** (Economics), Wright State University, *ex officio*; **NOELEEN MCILVENNA** (History), Wright State University, *liaison from the AAUP Collective Bargaining Congress*; **BRIAN TURNER** (Political Science), Randolph-Macon College, *liaison from the Assembly of State Conferences*

Addendum

Following the visit of the investigating committee, the Association continued to monitor governance developments at Maricopa Community Colleges. In January, soon after the Association's staff sent a prepublication draft of this report to the principal parties, events at the institution took a welcome turn.

On November 6, 2018, three new members to the district governing board were elected. In January, a majority of the new governing board called for a special meeting to elect new officers, even though Mr. Hendrix's term as board president had not yet expired. Speaking to the *Arizona Republic*, Mr. Hendrix observed that the ideology of the board majority had shifted in the recent election, "going from a board with shared conservative views less inclined to support labor unions, to one with a more liberal stance," adding, "In all likelihood, the direction will change again in 2020."

At the January 15 special meeting, Mr. Hendrix announced his resignation as president, and the governing board elected Dr. Linda Thor, president emeritus of Rio Salado College, one of the district's colleges, to succeed him. Among the first actions of the board's new leadership was to propose the following resolution:

a. The resolution approved by the MCCCD Governing Board on February 27, 2018 regarding policies governing residential faculty is rescinded upon this Resolution's final adoption by the current Governing Board.

b. The action approved by the MCCCD Governing Board on June 26, 2018 regarding a process for creating policies governing residential faculty is rescinded upon this Resolution's final adoption by the current Governing Board.

c. A Faculty Administration Collaboration Team (FACT), which is the recognized body for Faculty agreement development, shall be constituted, comprised of two members appointed by the Faculty Executive Council, two members appointed by the Adjunct Faculty Association, and two administrators appointed by the Chancellor, and further, that the Residential Faculty Policies be renamed the Faculty Agreement to better reflect the work being done.

d. The Residential Faculty Policies dated July 1, 2017 are extended beyond its termination date of June 30, 2018, to June 30, 2019, unless extended further by action of the Governing Board.

e. The Faculty Administration Collaboration Team (FACT) shall propose to the Governing Board for consideration within 90 days of this

> Resolution's adoption a Faculty Agreement that is informed by the current Residential Faculty Policies and includes new language relating to adjunct faculty.

The resolution was adopted by a vote of five to one. Mr. Hendrix did not attend the meeting.

On the following day, Professor Schampel informed the members of the FA by email of what had transpired. He pointed specifically to the vote of new board member Kathleen Winn, a Republican, in favor of the resolution, which he regarded as evidence that restoring shared governance is not "a partisan issue, as it has been characterized by certain other Board members," adding, "Additionally, as was further demonstrated in tonight's Board discussion, the role of the Board, the Faculty, the Staff, and the Administration is not partisan, but always focused on the betterment of the District and the students we all serve." His message concluded, "In recognition of the Board's vote, in a standing-room-only Rio Conference Center packed with faculty and staff, the Board received a cheering standing ovation. We could not have gotten this far without the support of all our Faculty Association members and our Staff colleagues. The work has just now begun. We will keep you informed of all future developments."

In January, Mr. Darbut announced that he would retire, effective February 2019.[5] ■

5. Having received the prepublication draft of this report, not containing the addendum, with an invitation for comment and corrections, General Counsel Cooper submitted a letter conveying the administration's comments, which the staff took into account in preparing the final version of this report. The letter recounted the recent action of the governing board summarized in the addendum and noted that the administration took the view that it had addressed many of the concerns the Association had raised in this report, "including Faculty selection of its own representatives, faculty participation in creation of faculty policies, and the role of adjunct faculty." The letter did raise several objections, as follows:

> With respect to the remainder of the report, the District administration is not in a position to comment on many of the facts stated therein, and in any event, we do not see our role as commenting on every potential factual inaccuracy. However, there are a few points that merit comment. First, we must remind you that the District is a political subdivision of the State of Arizona and that Arizona state law sets out the responsibilities of the Governing Board, which include its responsibility to set policy. The role of shared governance is of course a matter of policy. Second, labeling the Chancellor as derelict in her response to the Board's sudden substantial changes to long-standing policies that mandated specific action in short time is, at the very least, not informed by a fair review of the relevant facts.
>
> Given that the Board has just suddenly reversed direction, however, and that the FACT process will be underway by the time the AAUP receives this report, we do not see the purpose of pursuing this issue. Nor do we see the utility of correcting other factual inaccuracies, although we do note that the report's description of the development of the faculty policy process is not accurate. We also want to note that the Chancellor recently arranged for a full day of training by the Association of Governing Boards on board governance, as well as training by the General Counsel in matters related to Arizona state law. All Board members participated in this training.

Regarding alleged inaccuracies in the "description of the development of the faculty policy process," the Association would have been more than willing to consider corrections had the administration identified any such inaccuracies in detail. Comments received from members of the faculty did not identify any inaccuracies in the report's description of the development of that process.