

**MARICOPA COUNTY COMMUNITY COLLEGE DISTRICT
GOVERNING BOARD
JUNE 21, 2011**

MINUTES

An executive session and special board meeting of the Maricopa County Community College District Governing Board were scheduled to be held at 5:30 p.m. at the District Support Services Center, 2411 West 14th Street, Tempe, Arizona, pursuant to A.R.S. §38-431.02, notice having been duly given.

PRESENT

GOVERNING BOARD

Randolph Lumm, President
Doyle Burke, Secretary
Don Campbell, Member
Debra Pearson, Member
Dana Saar, Member

ADMINISTRATION

Rufus Glasper
Mary O'Connor for Steve Helfgot
Debra Thompson
Maria Harper-Marinick
Anna Solley
George Kahkedjian
Lee Combs
Paul Dale
Shouan Pan
Ernie Lara
Janet Langley for Gene Giovannini
Chris Bustamante
Jaci Askins for Linda Lujan
Joyce Elsner
Jan Gehler
Alberto Sanchez for GCC
Nikki Jackson

CALL TO ORDER The special board meeting was called to order at 6:07 p.m.

**EXECUTIVE
SESSION** The executive session was called to order at 5:30 p.m.

**SPEAKERS
FROM THE
PUBLIC** President Lumm announced that although no Citizens Interim had been noticed on the agenda, he was going to allow ten speakers from the audience – five on each side of the issue. The following citizens came forward to speak in support of delaying the implementation of the new tuition rate for out of state, undocumented students. There were no speakers in support of the implementation.

The following citizens came forward.

1. Carolyn O'Connor: Ms. O'Connor indicated the following: (taken from copy of script)
"My name is Carolyn O'Connor. I have worked at the district for 31 years, mostly in administrative positions. I want to make this clear that I am not speaking for my college but for our employees. I am asking that you please delay the implementation date for the out of state tuition fee. If we don't, I have a concern for our district and our employees. Employees are confused, frustrated, fearful and feel threatened. This decision was premature and not well thought out.

The implementation strategy employees were trained on last fall have changed as have the responses for the Q&A that we were given. Originally, an HB1070 Task Force was formed for the sole purpose of how to comply with SB2008. At no time was the tuition discussed. We were told several times, "We just need to demonstrate due diligence." We were given the definition of what constitutes "public policy, what the expectations of employees were, and how to report any violations." Based on these sessions we redesigned forms, changed processes and put up signs to educate the community "not to ask for state or federal funding." We were doing "due diligence."

Prop 300 placed an incredible burden on our front line employees with the required amount of paperwork. Employees are more than willing to do what is required of them including the additional documentation. However, not having specific clear cut guidelines that are open to legal ramification put employees in a precarious position. It is irresponsible to do this to good employees. Some of the comments I have heard from employees across the district are: "What if we make a mistake, I don't want to go to jail.", "I don't want to put my job on the line for this.", "I reread my Q&A from last year, the new stuff we are hearing contradicts everything we were told to do last year, who is making these rules up?", "I had to ask a 13 year old in foster care to sign a form that states signing these "penalty of perjury statement."

Here are some gray areas: Originally employees were told non-credit is exempt – not so. Undocumented students are allowed to receive private funds -- how to apply/channel the funds is an issue not worked out yet. Federal law Plyers vs Doe guarantees the rights of undocumented students in K-12. It states you can't ask their immigration status or documentation. Views on this vary from college to college. There are elementary students involved in many of the college's bridge programs . . . even if the funds are from private donors. If they are channeled through the college is that considered "public benefit" some say yes, others say no. Does federal law trump state law? Can we ask elementary students for documentation -- some say yes, some say no. Donors contribute scholarship funds specifically for undocumented students . . . if they come to the college they will have to be returned . . . a process for this has yet to be established.

The Student Life directors are struggling. . some were told students can travel in the van as a college, if a meal is included, you can't pay for an undocumented student but they can participate in conferences, sports, other college activities, etc. and the task force is still working at crafting language for this. Because we are a "community college" many of our services are open to the community, i.e., library, computer lab, career services are a few . . . does this constitute "public benefit" and can we continue to serve the community? We are a strong district. We are considered a leader among community colleges. Making these decisions in isolation without involving the entities that have to implement them has consequences. This has divided communities, pitted board members against board members, created confusion and uncertainty among colleges and left Maricopa vulnerable to the

scrutiny of the local press. Please take this time to take a deep breath and reevaluate this issue. With the inclusion of the colleges, reevaluate the surcharge . . . for all intents and purposes, out of state students taking 1-6 hours did pay a surcharge. I leave you with one of the five principles that guide Utah's Immigration Compact: A free society . . . immigrants are integrated into communities across Utah. We must adopt a human approach to this reality, reflecting our unique culture, history, and spirit of inclusion. The way we treat immigrants will more about us as a free society and less about our immigrant neighbors. Utah should always be a place that welcomes people of good will."

2. Angel Garcia commented that a letter had been sent to General Counsel Lee Combs by Senator Steve Gallardo referencing A.R.S. 15-1803 (Alien in-state student status), proposing that the cost can be higher than the in-state tuition rate but lower than the \$317. This change will create a hostile work environment for students and employees because minutemen want to come on campuses. In the Court of Appeals some language was struck out. Employees were not supposed to be playing ICE and be checking identification for everyone coming in the door. This creates inefficiency. It is on a suspicion thing that they can turn you in on 1070. There is fear among administration and instructors. Things need to be worked out so that there can be a better understanding.
3. Daniel Rodriguez indicated there has been a lot of discussion and questioned if MCCCCD was ready 100% when they had done only 10% due diligence. Faculty and staff can attest to that. Just be reasonable. General Counsel said the county cannot implement 100%, then how can MCCCCD implement 100%. Do it right. Discrimination affects students of color and this needs to be looked at further. This is an attack on immigrant community. Not just immigrants that will be affected but all Hispanic students. The District does not have the information correct. Need a communication strategy so that students and employees are not put in compromising positions.
4. Diane Post, an attorney, was supportive of education but not supportive of an administrative budget more than seven times the national average. Stated this tuition hike was a red herring, other institutions have not interpreted the law the way MCCCCD is interpreting it. HB 2008, Sections D (sworn affidavit), E (Class 2 Misdemeanor), and H (Public Benefit), can be done without a tuition hike. K-12 students being asked for documents is a violation. The University of Arizona has a policy on financial aid. If no payments or assistance is provided, the statute on public benefit is not triggered. That is how they have interpreted it. Prop 300 requires aggregate data which is protected under FERPA. Many questions about interpretation of this law. The lawsuits to be worried about are for discrimination and since the alleged reason or the tuition hike is false, she asked what is the real reason.? Tuition hike is a pretext for discrimination. If going to be sued in either event, it is better to come down on side of more education rather than less.
5. Ben Miranda requested that a postponement or rescission of the proposed tuition hike be made. It took only five minutes to make a decision. Mr. Saar asked questions as to whether it complied with the law. Mr. Combs responded that it corresponded to HB2008 and the use of public benefits. There should have been a cost analysis. The only person that spoke up was the Vice Chancellor of Business Services. Here to ask to rescind tuition hike. Tuition fees represent 25% of budget (in actuality they represent 32.6%), property taxes make up most of the revenue. How can this be a benefit? Three sources of revenue. Not logical. Need to take note of the decision by the U.S. Supreme Court to turn down an appeal of the California case to not allow Dream Act Students to receive financial aid, letting it stand as the law. The burden of the budget shortfall does not belong with these students.

All students are alike. Some people take just one class and others more. They need technology. You are not out of compliance with HB2008. Do not ignore the needs of this country. Take a second seat to no one. Look at this law. Reassess this law.

SPECIAL BOARD MEETING

I. ACTION

A. GOVERNING BOARD

1. Proposed, that the Governing Board amend Action Item VI.C.1 on the board agenda for March 22, 2011, and specify the effective date for elimination of the Unclassified Rate for out of state students taking less than 7 credit hours.

President Lumm requested a motion for amendment of Action Item VI.C.1 on the board agenda for March 22, 2011, and specify the effective date for elimination of the Unclassified Rate for out of state students taking less than 7 credit hours.

MOTION NO. 9829

President Lumm presented a motion for amendment of Action Item VI.C.1 on the board agenda for March 22, 2011, and specify the effective date for elimination of the Unclassified Rate for out of state students taking less than 7 credit hours. Governing Board Member Dr. Don Campbell seconded the motion.

Board Member Comments:

Debra Pearson: First of all, the statement that no other community college system in the state has done this is incorrect. There have been other community colleges that have. Proposition 300 would not apply to laws in California or Utah. Not relevant in Arizona. Proposition 300 passed in 2006 by 71.4% of the voters. The law that was passed has been out there since 2006. Legislature cannot do part or portions of that law. We cannot change that law. Very sad that students are uneducated about this law. This applies to all students that are here from out of state. This is not singling out any particular student group. Want you to know that we do not conduct a cost benefit analysis when someone breaks a law. We abide by law. When parents go to jail, children suffer. Very discouraging when we see some of misfortunes that happens to children. When she was a cub scout judge when a car was disqualified because of a spring. Parents appealed to her to not do that and she indicated to them that they did it. Kids are punished by things that parents do. We have laws that we have to abide by. If students can afford another school, then they need to go there. This is the law and need to abide by that law. Boldly step forward and use this time to aggressively focus on what we need to do to be in compliance with this law. Do fund-raising for these students. Don't raise hopes. We need to abide by the law.

Randolph Lumm: Asked that it be postponed by six months. We are not ready for this implementation. Staff do not know what to do. Delay implementation. Not obey the law. Some staff are eager to report some citizens and others are fearful. We are not ready to implement. Asking for delay on this.

Dana Saar: Talked to many groups and legislators more specifically from the financial aspect. Proposition 300 was not a financial issue. Benefits should not go to individuals that do not deserve this. SB2008 is an interpretation of what the law said. We are obligated to abide by Proposition 300. Both parties have come to him and asked Board to comply. Has looked at policy many times. Would not

have any trouble with what they are asking staff to do. Make sure that students are protected. Foundation has already had a discussion about need to do more for students that are in need. Make sure that they have the funding. Issues about K-12 do not apply to us. We have nothing to do with K-12. That is a separate function. We do not ask for documentation. That is out of our jurisdiction. We represent 260,000 students. We do not want to put any of those in jeopardy. Make sure that we work harder for students to get funding. Field trips are paid for through student fees (private funds). Personally they asked these questions that Prop 300 requires in financial aid or belong to a club. It is about fees that are required to be paid.

Doyle Burke: Agreed with speakers and regrets the laws that have been passed the last few years. Would look forward to state legislators passing new laws. Read materials that district has prepared about what we are required to do when dealing with students. Employees who are not clear about materials should ask for clarification. HB2008 and Prop 300 language is clear. As a trustee he took an oath to uphold the law.

Don Campbell: As he looked back over the 27 years on the community college board and 8 years as an elementary school board member, he has always tried to do everything to help people get their education. For many years, he mopped floors to get an education in high school, community college and ASU. He determined that young people would not have to work the same to get an education. Felt it necessary to vote against the law and seek a postponement for implementation of the change.

President Lumm called for the roll call vote:

Don Campbell – aye;
Randolph Lumm – aye;
Dana Saar – nay;
Debra Pearson – nay;
Doyle Burke – nay.

Motion not approved 3-2 (Mr. Saar, Mr. Burke, Mrs. Pearson – Nay)

2. Proposed, that the Governing Board request an opinion from the Attorney General of Arizona as to whether elimination of the Unclassified Rate for out of state students is required by Arizona Revised Statutes, sections 15-1825 and/or 1-502.

President Lumm presented a motion to request an opinion from the Attorney General of Arizona as to whether elimination of the Unclassified Rate for out of state students is required by Arizona Revised Statutes, sections 15-1825 and/or 1-502. **This motion received no second.** Motion died for lack of second.

ADJOURNMENT The meeting adjourned at 7:00 p.m.

NEXT BOARD MEETING The next Governing Board Meeting will be a Regular Board Meeting on June 28, 2010 at 6:30 p.m. at the District Office.

Doyle W. Burke
Governing Board Secretary