



MARICOPA COMMUNITY COLLEGES FACULTY ASSOCIATION

INSPIRE EDUCATE CREATE

PRESS RELEASE

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FOR IMMEDIATE RELEASE

Tempe, AZ

The Maricopa Community Colleges Faculty Association has filed an injunction against the Governing Board of the 10 Maricopa Colleges.

On Tuesday, February 27 the board voted 4-3 to immediately suspend a decades-long Meet and Confer process with the faculty and to immediately strip faculty leaders of any reassigned time they currently receive to work with the community college administration.

“These arbitrary and capricious actions may also be illegal,” said Faculty Association president Mike Mitchell. “We have worked cooperatively with community college administrations and Governing Boards for more than 50 years for the benefit of hundreds of thousands of students, these actions will harm students,” continued Mitchell.

The four-member majority of the board who voted for the action also ignored the pleas of students representing the Associated Student Governments of the 10 community colleges, who argued against the motion at the 27th meeting.

“Privately, it has been suggested that some board members have political ambitions for higher office in the Fall 2018 elections,” said Barry Vaughan, Chairman of the faculty’s political action committee. “It is deeply alarming that some members of the board would put their own political ambitions ahead of the best interests of our students,” said Vaughan.

“We have tried every avenue we know to work with this Governing Board, but the unnecessary speed of their action and the lack of transparency surrounding it lead us to the conclusion that some members of the Board seem dead-set on attacking the faculty for their own ends. We have no recourse left but the courts, which deeply saddens us,” said Mitchell.

For more information on this topic, or to schedule an interview contact Bob Grossfeld.

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8 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
9 **IN AND FOR THE COUNTY OF MARICOPA**

10 FACULTY EXECUTIVE COUNCIL OF THE)
MARICOPA COMMUNITY COLLEGES)
DISTRICT, a non-profit corporation,)

11 Plaintiff,

12 v.

13 MARICOPA COUNTY COMMUNITY)
14 COLLEGES DISTRICT, a body politic;)
GOVERNING BOARD OF MARICOPA)
15 COUNTY COMMUNITY COLLEGES)
DISTRICT; LAURIN HENDRIX, JOHANNA)
16 HAVER, AUGUSTINE BARTNING, TRACY)
LIVINGSTON, JEAN MCGRATH, DANA)
17 SAAR, and LINDA THOR in their official)
capacity as members of the Governing Board)
18 of Maricopa Community Colleges District.)

19 Defendants.
20

No.

**COMPLAINT FOR
SPECIAL ACTION**

(An act arbitrary, capricious,
contrary to law, and an
abuse of discretion)

21 The Plaintiff, Faculty Executive Council of the Maricopa Community Colleges
22 District (“Faculty Association”), by and through the counsel undersigned for its Special
23 Action complaint, alleges as follows:

24 **I. JURISDICTION AND VENUE**

25 1. Pursuant to Rules 3(C) and 4 of the Arizona Rules of Procedure for Special Actions
26

1 and Arizona Revised Statutes (A.R.S.) § 12-2001, this Court has jurisdiction to hear and
2 determine this special action complaint and to grant the relief requested.

3 2. The Maricopa County Superior Court is the appropriate venue pursuant to Rule
4 4(b) of the Arizona Rules of Procedure for Special Actions.

5 **II. PARTIES**

6 3. Plaintiff is a non-profit corporation authorized to do business in the County of
7 Maricopa, State of Arizona. Plaintiff has been the non-exclusive meet and confer
8 representative for all residential faculty of the Maricopa County Community Colleges
9 District for more than forty years, and, as such, is the authorized signature party for
10 residential faculty for purposes of the contract between the parties known as the
11 Residential Faculty Policies (RFP).

12 4. Defendant Maricopa County Community Colleges District (“MCCCD”) is a body
13 politic.

14 5. Defendant Governing Board of the Maricopa County Community Colleges District
15 is an administrative agency existing pursuant to the laws of the State of Arizona,
16 comprised of elected individual Defendants set forth below.

17 6. Defendants Laurin Hendrix, Johanna Haver, Augustine Bartning, Tracy
18 Linvingston, Jean McGrath, Dana Saar, and Linda Thor are, and were at all relevant
19 times, elected members of the Governing Board of Maricopa County Community
20 Colleges District.

21 7. Defendant MCCCD is a governmental entity operating as such within and pursuant
22 to the laws of the State of Arizona. All the events and/or transactions set forth herein
23 occurred in the County of Maricopa, State of Arizona.

24 **III. FACTUAL AND PROCEDURAL BACKGROUND**

25 8. Defendants MCCCD, the Governing Board of Maricopa County Community
26 Colleges District and a majority of individual board members thereof enacted a Resolution

1 on February 27, 2018 whereby the Defendants, collectively, eliminated certain sections of
2 the existing contract by and between the parties, the Residential Faculty Policies effective
3 July 1, 2017, namely the meet and confer process as set forth in Sections 1.2 and 7.6. In
4 addition, the Defendants eliminated all paid “release time” for any member of the Faculty
5 Executive Council and for any employee of the MCCCCD that currently participates in the
6 meet and confer process.

7 9. Elimination of these provisions from the existing contract between the parties was
8 predicated on declarations set forth in the Resolution, namely that the Defendants based the
9 afore-referenced action on a perceived violation of ARS §11-410 prohibiting employees of
10 MCCCCD from engaging in activities for a political action committee while on duty. More
11 specifically, the chair of the Governing Board, Laurin Hendrix, specifically stated, in support
12 of this resolution, that the Plaintiff violated this statute, referencing documents designed for
13 fund raising purposes authored by a faculty member of the MCCCCD. However, those
14 documents, upon which the Board acted, were mis-characterized and falsely described. The
15 documents were not created nor was there any effort to engage in fund raising activities while
16 on duty or in the capacity of a faculty for the MCCCCD; to the contrary, the documents which
17 were referred to as support for the afore-referenced resolution were entirely produced and
18 sent while in an off duty, non-working capacity.

19 10. In addition, the part of the Resolution eliminating the meet and confer process for the
20 Faculty Association was based on an erroneous reading of the law, namely, A.R.S. §15-1444
21 relating to collective bargaining, a law that does not, as the resolution claims, outlaw meeting
22 and conferring.

23 **BASIS FOR SPECIAL ACTION**

24 11. Thus, in the manner as afore-described, Defendants acted in a manner that was
25 capricious, arbitrary and contrary to law by taking an action and making a determination
26 based upon the statements made at the time of the Resolution to the effect as above-

1 described, all of which were predicated on false assumptions, mis-characterized events and
2 facts that did not occur. As such, the actions of the Defendants, and each of them, were
3 arbitrary, capricious and contrary to law and thereby should be rescinded by order of this
4 court.

5 12. The Defendants, acting upon the information provided by Defendant Laurin Hendrix,
6 predicated the afore-referenced Resolution on false information whereby the actions as
7 described, to wit: enacting the Resolution eliminating all paid release time for any member
8 of the Faculty Executive Council and the elimination of the meet and confer were an abuse
9 of discretion, arbitrary and capricious in that action was based on false conclusions that
10 members of the Faculty Association had violated the afore-referenced state law.

11 13. In fact, Plaintiff, and its members, at all times acted in accordance with the referenced
12 statutes in the resolution and were not in violation thereof.

13 14. Specifically, the elimination of all release time for any member of the Faculty
14 Executive Council, the governing body of Plaintiff Faculty Association, and elimination of
15 the meet and confer process were acts that in all respects, for the reasons stated herein, were
16 arbitrary and capricious and, as such, this Court should remand for purposes of rescission of
17 the Resolution of February 27, 2018.

18 **DESIGNATION OF RECORD**

19 15. Plaintiff designates the following to be filed as part of the record on special action
20 review:

- 21 A. Minutes of the board meeting on February 27, 2018.
- 22 B. Exhibits referenced by board members at the board meeting on February 27,
23 2018.
- 24 C. Video recording of the board meeting of February 27, 2018.
- 25 D. The Resolution executed by the Governing Board on February 27, 2018.

1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff prays for judgment against the Defendants as follows:

- 3 1. That this Court determine that the Defendants acted arbitrarily, capriciously,
4 and contrary to law, thereby abusing their discretion and remand this matter
5 back to Defendants for action consistent with the order herein.
- 6 2. Plaintiff also requests attorneys' fees and costs incurred herein, and for such
7 other further release as the court deems just and proper in the premises.

8 DATED this ____ day of March, 2018.

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