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# **INDEPENDENT INVESTIGATION REPORT**

**Regarding Classified Staff Council Complaints to the Governing Board on  
February 28 and March 28, 2017**

***SUBMITTED TO:***

Chancellor Maria Harper-Marinick  
Maggie McConnell, Interim General Counsel

***SUBMITTED BY:***

Rayna H. Jones, Esq.  
**OGLETREE, DEAKINS,  
NASH, SMOAK & STEWART, P.C.**

**May 24, 2017**

**INVESTIGATION REPORT**

**I. SUMMARY OF ALLEGATIONS**

At the February 28, 2017 Governing Board Meeting, Kris Bliss, President of the Maricopa County Community College District (the “District”) Classified Staff Council (“CSC”) presented concerns related to the CSC’s working relationship with the Administration (the “February 28 Presentation”). (Exhibit A) On behalf of the CSC, Ms. Bliss raised three allegations naming the Administration, and specifically its Human Resources Department:

1. The Special Projects Assistant to the Vice Chancellor, who had been assigned by the Vice Chancellor of Human Resources to supervise the CSC Officers, created an email distribution list for internal communication between and among the CSC Officers and their constituents, and the Special Projects Assistant retained ownership of and the ability to monitor communication sent using the distribution list.
2. The Special Projects Assistant attempted to circumvent the CSC Constitution by directing the CSC President to remove one of her appointed representatives to a District committee.
3. Human Resources tampered with the content and signatures of a written agreement. Specifically, a Memorandum of Understanding on the Employee Resources Realignment Policy (“MOU”) had been manipulated so that signatures from an unpublished 2015 MOU appeared on an edited version of the document, which was published in the Staff Policy Manual in 2016.

At the March 28, 2017 Governing Board meeting, Ms. Bliss presented to the Board the CSC Officers’ concerns regarding Chancellor Harper-Marinick’s and Vice Chancellor Shelton-Johnson’s negative and possibly retaliatory response to the February 28 Presentation (the “March 28 Presentation”). (Exhibit B) In her March 28 Presentation, Ms. Bliss alleged that the Chancellor told the CSC Officers that she did not have to meet with them each month, and accused Ms. Bliss of lying to the Board in her February 28 Presentation by implying that the CSC had gone to the Chancellor several times about the alleged MOU forgery. Additionally, Ms. Bliss alleged that, following the February 28 Presentation, Vice Chancellor Shelton-Johnson came to the next meeting of the Collaborative Policy Development Committee to tell the Committee that the Administration does not negotiate with employees and may unilaterally change the terms of the Staff Policy Manual without ratification by employee representatives. According to Ms. Bliss, the Vice Chancellor told the faculty meet and confer team on March 10, 2017 that they would continue to use the consensus-based process that the CSC was just denied.

In response to these allegations, on or about March 13, 2017, the Chancellor retained Ogletree, Deakins, Nash, Smoak & Stewart, P.C. (“Ogletree Deakins”) to conduct an independent investigation into the CSC claims raised in the February 28 Presentation, and the scope of investigation was expanded to include the allegations in the March 28 Presentation.

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### **III. INVESTIGATION PROCESS**

In connection with the investigation, Ogletree Deakins interviewed the following the District employees:

- Kris Bliss, CSC President
- Adrienne Hicks, CSC Vice President/Financial Officer
- Kristy Warfield, CSC Secretary/Communications Officer
- Michael Fulton, CSC Collaborative Policy Development Officer & Co-Chair
- Sharon Ridgeway-Monaco, CSC Conflict Resolution Officer
- Kerry Mitchell, Director of Institutional Planning, Research, and Effectiveness and CSC Representative, DSSC, and Member of the CSC CPD delegation
- Megan Tormey, Special Projects Assistant to the Vice Chancellor for Human Resources
- Maria Bellino, Dean, Administrative & Employee Services, Rio Salado College
- Alyssa Brown, HR Business Partner, HR Solutions Center
- Hope Basoco, HR Project Assistant, HR Webmaster
- Judy Castellanos, Sr. HR Manager, Workforce Resolutions & Compliance/HR Solutions Center
- Barbara Basel, Associate Vice Chancellor, HR Solution Center
- LaCoya Shelton-Johnson, Vice Chancellor Human Resources
- Maria Harper-Marinick, PhD, Chancellor

The investigation also included a review and analysis of relevant documents and information, including the following:

- Classified Staff Presentation, February 28, 2017
- Classified Staff Presentation and Statement, March 28, 2017
- Video recording of the February 28, 2017 Governing Board Meeting
- Video recording of the March 28, 2017 Governing Board Meeting
- Staff Policy Manuals and Appendices from 2014 to the present
- CSC By-Laws and Constitution
- Proposed C-5, Collaborative Policy Development Policy
- Mr. Mitchell's memorandum on the Historical Context of the Language in Policy C-5
- Collaborative Policy Meeting Minutes and Agendas
- Memorandum of Understanding on Policy C-5, Employee Resource Realignment (multiple versions and drafts)
- Policy C-5, Employee Resource Realignment (multiple versions)
- Skill Center Integration Executive Summary dated February 17, 2017
- Drupal Records showing revision and moderation activity on the HR Policies webpage
- Numerous emails related to policy development and the policy ratification process, related to the Staff Policy Manual edits and publication

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- OMW SharePoint Site and contents; Emails and documents produced by the CSC Officers related to their allegations, and related to concerns with the Human Resources Department
- Employee Benefits Advisory Council By-laws.

Ogletree Deakins also received, searched, and reviewed the email files for three current employees and one former employee in the Human Resources Department: Judy Castellanos, Megan Tormey, Hope Basoco, and Leah Dustin Hall.

### **III. SUMMARY OF FACTUAL FINDINGS AND CONCLUSIONS**

#### **A. CREATION OF THE CLASSIFIED STAFF COUNCIL**

Historically, the District's classified employees were divided into five employee groups – Crafts; Management, Administrative, and Technical (“MAT”); Maintenance and Operations (“M&O”); Professional Staff Administration (“PSA”); and Public Safety. Each of these employee groups had their own representatives and policies. Because of the difficulties of managing multiple policy manuals and need for consistency in policies that applied to the classified staff, regardless of their employee group, the Administration and the employee groups began to merge into one policy manual over the course of several years. The consolidated Staff Policy Manual (“SPM”) went into effect in 2013. However, the merger of the policies was not fully completed, so each employee group had its own appendix to the SPM.

In 2015, the District launched its One Maricopa Workforce (“OMW”) initiative. Under this initiative, the five classified staff employee groups were combined into one classified staff employee group, which would be represented by one representative body, the Classified Staff Council (“CSC”). The CSC is made up of elected classified staff employees who represent and advocate for classified employee interests throughout the District.

In May 2016, classified staff throughout the District voted to elect representatives to the CSC. These individuals were officially seated on July 5, 2016. In August 2016, the CSC representatives elected five representatives to serve as officers for the CSC. The elected officers were Kris Bliss, President, Adrienne Hicks, Vice President/Financial Officer, Kristy Warfield, Secretary/Communications Officer, Michael Fulton, Collaborative Policy Development Officer, and Shannon Ridgeway-Monaco, Conflict Resolution Officer. (the “CSC Officers”). During their one year term of office, the CSC Officers are placed on temporary reassignment as District employees serving full-time in their role as CSC Officers. The CSC Officers also relocated to the District Office. As part of their temporary reassignment, Vice Chancellor Shelton-Johnson assigned her Special Project Assistant, Megan Tormey, to be the supervisor of the CSC Officers.

According to Ms. Tormey, her primary role is to support and assist the CSC Officers, especially during this key transition period. As much of the CSC Officers work overlaps with Human Resources, Ms. Tormey is also available to guide the CSC Officers through various Human Resources' processes and procedures. Additionally, Ms. Tormey states that she also has more

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traditional supervisory duties, including absence management, performance management, and employee development. Ms. Tormey meets bi-weekly with each of the CSC Officers to keep informed on the progress of the transition and any issues that may arise.

**B. CSC BOARD COMPLAINT - FEBRUARY 28, 2017**

1. The evidence substantiates that Ms. Tormey was on the CSC Officer Distribution List, but does not substantiate any violation of policy.
  - (a) Ms. Tormey creates the CSC Officer distribution list.

On September 13, 2016, Ms. Tormey requested that the District's IT Department create a separate email account for each of the CSC Officers and create a CSC Officers email distribution list, which included all five officers. (Exhibit C) On October 3, 2016, the CSC Officers distribution list was created with Ms. Tormey as the owner.<sup>1</sup> (Exhibit D) That same day, Ms. Tormey notified the CSC Officers via email that their individual service accounts and the CSC Officers distribution list had been created. (Exhibit E) Anyone, including Ms. Tormey, could send emails directly to all five officers using the distribution list.

On October 4, 2016, an email was sent by one of the CSC Officers via the distribution list. Ms. Tormey responded to the email. (Exhibit F) According to the CSC Officers, until Ms. Tormey sent this email, they were unaware that she was a member of the CSC Officer distribution list. Ms. Warfield emailed Ms. Tormey and asked her if she was set up as part of the CSC Officers distribution list, and if that needed to be adjusted. (*Id.*) Ms. Tormey responded that she thought she was included on the distribution list, and they could try a test email. (*Id.*) On October 11, 2016, in response to another email from Ms. Warfield, Ms. Tormey confirmed that she was included on the officer distribution list as an administrator. (*Id.*)

Because the CSC Officers act as representatives and advocates for their constituents, including in matters involving Human Resources, the CSC Officers felt it was inappropriate for Ms. Tormey, who is in Human Resources, to be receiving emails intended for the CSC Officers. The CSC Officers envisioned the CSC as being separate and autonomous from Human Resources. After conferring with Ms. Bliss, Ms. Warfield requested that Ms. Tormey remove herself from the distribution list, and transfer ownership of the list of Ms. Warfield and Ms. Bliss. In response, on October 14, 2016, Ms. Tormey notified Ms. Warfield that she had also been made an owner of the distribution list. Ms. Tormey further notified Ms. Warfield that she would remove her email address off the distribution list, but would maintain ownership of the distribution list in case of emergencies. Ms. Warfield, however, still could not access the distribution list as an administrator, and Ms. Tormey offered to reach out to IT to seek a resolution. (Exhibit G)

According to Ms. Tormey, teams of employees and supervisors often have their own distribution list, and she was surprised to learn that the CSC Officers were unaware that she was on the

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<sup>1</sup> As the owner of the distribution list, Ms. Tormey acted as the administrator of list. As the administrator, she could add or remove emails from the distribution list.

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distribution list. Ms. Tormey admits that she was merely thinking about the distribution list in the context of her role as a supervisor, and did not consider the potential privacy issues given the role of the CSC Officers in representing the classified staff. Ms. Tormey removed her email address from the distribution email so she would no longer receive any emails that went to the CSC Officer distribution list. However, Ms. Tormey remained the owner of the distribution list. According to Ms. Tormey, IT instructed her that a “static person” should own the distribution list. This way, when the CSC Officers changed, the distribution list would not have to change owners.

However, other distribution lists are owned by employees in temporary reassignments. For example, Ms. Bliss and Ms. Warfield own the distribution list for the full Classified Staff Council. Prior to the creation of the CSC, the Presidents of the employee groups owned their own distribution lists.

After Ms. Tormey notified the CSC Officers that she had removed her email from the distribution list, she did not get any further feedback, and thought the issue was resolved. According to Ms. Tormey, she did not realize it was an on-going concern with the CSC Officers until the February 28 Presentation.

- (b) Ms. Tormey did not violate any District policy, but should not be an owner of or recipient of emails from the CSC Officer distribution list.

It is undisputed that Ms. Tormey established a distribution list for the CSC Officers, for a time received emails via that distribution list, and remains an owner of that distribution list to this day. However, the evidence does not suggest any type of covert monitoring by Ms. Tormey, or any violation of District policy. On October 3, 2016, Ms. Tormey notified the CSC Officers that the CSC Officer distribution list had been created and was ready for use. By October 4, 2016, the CSC Officers were aware that Ms. Tormey was receiving emails sent to the distribution list when she responded to an email sent to the distribution list. Ms. Tormey took no steps to hide the fact that she was a member of the distribution list. Moreover, upon request of the CSC Officers, Ms. Tormey removed her email from the distribution list, so she would no longer receive emails sent to the CSC Officers distribution list. There is no evidence that Ms. Tormey attempted to inappropriately monitor the actions of the CSC Officers in violation of the District’s Electronics Communications Policy or Technology Resource Standards. ([Maricopa Governance Online Policy Manual, Administrative Regulations 4.3 and 4.4](#))<sup>2</sup> Her inclusion on the distribution list did not violate any District Policy, and the question of whether nor she *should* have been a member of the distribution does not fall within the purview of either policy.

Despite Ms. Tormey removing her email account from the distribution list, she currently still retains ownership of the list. The CSC Officers expressed concern that, as an owner, she still has the ability to turn on and off her access to the distribution list. Although it may be preferable from an IT standpoint for the owner of the distribution list to be in a permanent role, there is clearly a

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<sup>2</sup> We have included a hyperlink to documents available on-line as some of these documents are very lengthy.

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past precedent that individual employee groups' representatives serve as owners of their distribution lists, and currently two CSC Officers own the distribution list for the CSC representatives. Given the role of the CSC and the CSC Officers as advocates and intermediaries for their constituents, it does not seem advisable for a member of the Human Resources' department to own a distribution list for the CSC or its officers, or to be a recipient of these emails. It is unfortunate that there is such a breakdown of trust between the CSC Officers and Human Resources that Ms. Tormey's assertion that she removed her email from the distribution list is not sufficient. Since that restriction apparently is not sufficient, the need for confidentiality between and among the CSC Officers and their constituents weighs in favor of Ms. Tormey removing herself as an owner of the CSC Officer distribution list.

2. Ms. Tormey did not violate any District policy by requesting the removal of Dan Huston from EBAC.

In May 2016, classified staff employee Dan Huston was elected to serve as a CSC representative. Additionally, Ms. Bliss appointed Mr. Huston to serve as a CSC representative to the District Employee Benefits Advisory Committee ("EBAC"). Due to the complicated subject matter handled by the committee, the Chair of EBAC encouraged Ms. Bliss to find representatives for EBAC with prior knowledge of the committee. Ms. Bliss asked for volunteers to serve on EBAC, and of the three CSC representatives with prior EBAC experience, only Mr. Huston offered to serve on the committee again. Mr. Huston had previously served as an employee group representative to EBAC, and had several years of experience. Ms. Bliss, Ms. Hicks, and Michael Newman, CSC At-Large Representative, also served as CSC representatives to EBAC. When Mr. Huston accepted another position within the District and was on probationary status, he had to step down from the CSC in accordance with the CSC Constitution. ([CSC Constitution](#), Article VI Representatives, Section 2) Nevertheless, because of his knowledge and experience, Ms. Bliss asked him to remain on EBAC as a representative.

After learning that Mr. Huston no longer served as a representative to the CSC, Ms. Tormey asked Ms. Bliss who she had found to replace Mr. Huston on EBAC. Ms. Bliss responded that Mr. Huston would remain on EBAC. Ms. Bliss thought the issue was closed. In January 2017, Ms. Tormey asked Ms. Bliss again if she had found a replacement. Ms. Bliss reminded her that she had asked Mr. Huston to stay on as a representative to EBAC. Later that day at the EBAC meeting, Lisa Kussard, Sr. Manager Human Resources, approached Ms. Bliss stating that Ms. Tormey had asked for Mr. Huston to be removed from EBAC. Moreover, Alice Hevey, an administrative assistant who serves as the note taker for EBAC, told Ms. Bliss that Ms. Tormey asked her to remove Mr. Huston from the EBAC distribution list. Ms. Bliss told them both not to remove Mr. Huston, and said she would contact Ms. Tormey.

However, Ms. Bliss did not want to have any further discussions with Ms. Tormey regarding Mr. Huston because she considered the matter closed. Ms. Tormey did not, and set a meeting with Ms. Bliss to discuss his removal. During the meeting, she expressed her unhappiness with Ms. Bliss telling Ms. Kussard and Ms. Hevey not to remove Mr. Huston. Ms. Tormey explained that she could not support Mr. Huston serving on EBAC as he was no longer on the CSC. Ms. Bliss

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explained that pursuant to the CSC's Constitution, the President appoints representatives to committees and the CSC approves those appointments. ([CSC Constitution](#) at Article VII, Section 1 and 4) Ms. Bliss did not think Ms. Tormey should have a say on who the CSC selects to sit on a committee as the CSC should be autonomous from Human Resources. Ms. Tormey, on the other hand, felt it delegitimized the council if the person sitting on the committee was not an elected representative. Ms. Bliss responded that other committees had representatives who were not elected to the CSC, including, Serena Lindsay, Administrative Assistant to Vice Chancellor, Resource Development and Community Relations, who sits on the Collaborative Policy Development Committee, and is not an elected representative. The exchange became heated between Ms. Bliss and Ms. Tormey, and neither moved off their position.

In addition to Ms. Tormey, Kathy Brooks, Associate Vice Chancellor, HR Administration, questioned Ms. Bliss on selecting Mr. Huston as an EBAC representative since he was no longer a CSC representative. (Exhibit H) EBAC has its own set of Articles of Operation. Under Article 5 – Membership, it states that the committee will be comprised of two representatives from each Governing Board recognized employee group to include the employee group President (or designated alternate) plus one additional representative from each employee group as selected by the group. (Exhibit I) Ms. Tormey understood these by-laws to mean the representative should be an actual elected representative, and that EBAC was only District committee with such a requirement.

Nevertheless, following her conversation with Ms. Bliss, Ms. Tormey rethought her position and considered the additional arguments raised by Ms. Bliss. After over two months of disagreement, on February 9, 2017, Ms. Tormey emailed Ms. Bliss and stated that she now felt that “it does make sense to keep Dan Huston on EBAC for the remainder of the year.” (Exhibit J) She did note, however, that she thought the issue of having non-representatives serve on committees on behalf of the CSC should be further explored.

Here, the evidence does not support a violation of any District policy by Ms. Tormey. Instead, the conflict highlights the lack of clarity regarding Human Resources involvement with and oversight of the CSC and the CSC Officers. Additionally, the CSC constitution and the application of the EBAC by-laws appear to be in conflict, and a determination should be made on how to resolve that conflict. However, an interpretation of these policies is outside the scope of this report.

3. The evidence did not substantiate the CSC's claim of intentional forgery, but HR did erroneously publish an altered written agreement in the SPM.

As is evident by the detailed narrative below, the events leading to the publication of an altered version of the Employee Resource Realignment MOU is confusing and convoluted. Although there was no evidence of forgery or any other intentional misconduct by anyone in Human Resources, the lack of process and document control for the editing and publishing of staff policies, coupled with inattentiveness on the part of Human Resources, led to the erroneous publication of an altered written document in the SPM.

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(a) History of the Employee Resource Realignment MOU.

As part of the process to merge the disparate employee group policies into a consolidated SPM, the District's Collaborative Policy Development group ("CPD") worked to standardize the Employee Resource Realignment Policy ("ERR Policy") across the five employee groups. The negotiation of the revised policy was extensive. Because of length of time it took to reach agreement on the ERR Policy and because the employee groups were in the midst of the OMW consolidation process, the CPD<sup>3</sup> did not want to go through the full ratification process.<sup>4</sup> As a result, CPD made the decision to enter into a memorandum of understanding, which would be signed by all five employee group leaders and the Vice Chancellor of Human Resources.

In February 2015, the employee group leaders and the Administration agreed on a memorandum of understanding dated June 29, 2015 in which MCCCCD and the five employee groups agreed to include a new ERR Policy as part of the SPM and eliminate the separate policies contained in each employee group's appendix to the SPM ("MOU Version 1"). (Exhibit A at 14-15) MOU Version 1 would replace any reduction in force or layoff policy language in the all employee group appendices, including the Skill Center employees. The five employee group Presidents executed the MOU Version 1 in February 2015. It was next sent to Vice Chancellor Shelton-Johnson for execution.

Because there continued to be an on-going debate over whether Skill Center employees should be included in the ERR Policy as classified staff,<sup>5</sup> Vice Chancellor Shelton-Johnson did not immediately sign MOU Version 1. After receiving feedback from certain college Presidents, Vice Chancellor Shelton-Johnson made the decision to exclude the Skill Center employees from MOU Version 1. The Vice Chancellor struck out all language in MOU Version 1 related to Skill Center employees, initialed her strike-outs, and executed MOU Version 1 on June 29, 2015.

When MOU Version 1 was returned to the CPD, the employee group representatives refused to publish it with the Vice Chancellor's strike-outs. Instead, the decision was made to revise MOU Version 1 to incorporate the strike-outs and recirculate a clean, revised version for execution by the employee groups and the Vice Chancellor.

Despite the Vice Chancellor making her edits to MOU Version 1 at the end of June 2015, a "clean" version of the MOU was not circulated to the CPD until February 2016. On February 10,

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<sup>3</sup> During the OMW transition, a policy development group called the Policy Consolidation Subcommittee replaced what was called All-CPD. Following completion of the merger of the employee groups into one classified staff group, a smaller CPD committee took over policy development for the classified staff. All three groups were made up of representatives from the employee groups and the Administration. For purposes of this report, the policy consolidation committees will be referred to as CPD.

<sup>4</sup> At the time, each employee had their own ratification process. For example, for the MAT group, the MAT executive council would ratify while some of the smaller groups had a direct vote. After the employee group ratified the policy, the policy would go to the Chancellor (and previously the Governing Board) for approval. Prior to ratification, the employee groups would loop out to their constituents for feedback.

<sup>5</sup> For years, Maricopa and Southwest Skill Center employees were treated differently from other District employees. In 2014, the District began to integrate the Skill Center employees into coverage under the SPM. However, several policies from the Skill Center Policy Manual were retained as an appendix to the SPM.

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2016, Vice Chancellor Shelton-Johnson asked to add language to the MOU stating that the MOU was originally signed in 2015, and that “given a number of handwritten edits a ‘clean’ version is presented to replace the previous ones and that no substantive changes are contained in this version as compared to the one signed [in 2015].”<sup>6</sup> (Exhibit K) On February 11, 2016, Ms. Castellanos provided a clean retyped version of the MOU for review by the employee group leaders at the CPD meeting. The employee group leaders provided input, and another meeting was held on February 25, 2016, where a few additional modifications were discussed, including the addition of paragraph 7, which specifically states that the MOU does not apply to the Skill Center employees. Finally, the revised MOU was signed by the employee group leaders and Vice Chancellor Shelton-Johnson effective February 25, 2016 (“MOU Version 2”). (Exhibit A at 17-18)

Between the Vice Chancellor of Human Resources making her strike-outs in June 2015 and execution of the clean version in February 2016, employees in Human Resources worked on revising MOU Version 1 to incorporate the Vice Chancellor’s edits. According to Ms. Castellanos, Leah Dustin Hall, Administrative Assistant, requested a version of the MOU with the strikeouts incorporated for the Vice Chancellor. Ms. Castellanos was not sure how to revise the MOU, since she did not know where the Word version was, so she asked her Senior Human Resources Manager, Maria Bellino, to edit the pdf of MOU Version 1 to remove the stricken language. On October 29, 2015, Ms. Bellino emailed Ms. Castellanos three edited MOUs.<sup>7</sup> (Exhibit L) According to Ms. Castellanos, this version of the MOU was intended to be a working document while the revisions were being finalized. In hindsight, Ms. Castellanos admits that she should have created a new Word document rather than editing the pdf of MOU Version 1.

On November 6, 2015, Ms. Castellanos forwarded an edited pdf of the MOU to several Human Resources employees for review along with other documents, which were discussed at an earlier meeting with Ms. Basel to discuss policy revisions. In this version of the MOU, Ms. Shelton-Johnson’s strikeouts were removed, but the Version 1 signature block remained. (Exhibit M)

During this time period, numerous changes were being made to the SPM. One set of policies primarily related to compensation were particularly controversial and had not been approved (the “X Files”). Because of all the work being done to update the SPM, Ms. Castellanos had Jacqueline Killourie, Administrative Assistant, HR Solutions, place both the edited pdf version of the ERR MOU and the X Files into a working copy of the SPM. According to Ms. Castellanos, she added the files in as placeholders in the SPM, but this working version was never intended for publication.

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<sup>6</sup> Although this language was placed into the executed “clean” version of the MOU and approved by the employee group leaders, the exclusion of the Skill Center employees from the MOU appears to be a “substantive change” from the version signed by the employee group leaders in February 2015.

<sup>7</sup> Although the language in all three documents is identical, Ms. Bellino was not sure how to format the edited pdf so she sent three options.

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After further discussions on the ERR MOU, Ms. Castellanos requested that Ms. Bellino revise the edited pdf version of the ERR to delete paragraph 4. Paragraph 4 stated that the parties agreed to exclude the language shown as struck out in the Appendices to the SPM, which was attached as Exhibit 2 to the MOU. According to Ms. Castellanos, this language was unnecessary because language struck from the appendices should have been removed by the time of publication. On January 27, 2016, Ms. Bellino forwarded a revised pdf version of the ERR MOU with paragraph 4 deleted to Ms. Castellanos and Ms. Killourie (“MOU Version 3”). (Exhibit N; *see also* Exhibit A at 20-21)

On January 28, 2016, Ms. Killourie responded that she would insert MOU Version 3 into the working version of the SPM and send it to Ms. Castellanos. (Exhibit O) On February 8, 2016, Ms. Killourie emailed Ms. Castellanos a Word and PDF version of their working document, which was labeled *Final 2015 SPM-Word Document Updates 2\_8\_2016*, as well as a tracking document, with the changes Ms. Castellanos had provided her. (Exhibit P)<sup>8</sup>

On February 9, 2016, Ms. Castellanos emailed Ms. Basoco and requested that a new version of SPM be published to the website. Ms. Castellanos provided Word and PDF document and instructed Ms. Basoco to upload the last policies of Section A (X Files). Attached to Ms. Castellano’s email was a word document and PDF labeled *2015 SPM-Word Document Updates 2\_8\_2016*, which contained MOU Version 3. (Exhibit Q)<sup>9</sup> Ms. Basoco published this version on February 11, 2016.

That same morning, Ms. Castellanos emailed Ms. Basoco and asked her to hold off publishing the SPM as she realized she had sent the wrong version. Ms. Basoco responded that the SPM was already set to push, and she would have marketing undo it after publication. (*Id.*) After several more emails were exchanged about which SPM to publish, Ms. Castellanos emailed Ms. Basoco a version of the SPM from Ms. Killourie, which did not contain the X Files or any version of the ERR MOU. (Exhibit R) Ms. Basoco published this updated version on February 12, 2016. ([Staff Policy Manual, February 12, 2016](#))

After receiving the signed MOU Version 2 from the policy committee, Ms. Castellanos provided it to Ms. Basoco to be published in the SPM. On March 10, 2016, Ms. Basoco published yet another SPM. This version contained MOU Version 2, which was the version the CPD intended for publication. ([Staff Policy Manual, March 10, 2016](#)) Another change was subsequently made to the SPM, and it was republished on May 19, 2016. The May 19<sup>th</sup> version also correctly contained MOU Version 2.

On June 2, 2016, Ms. Castellanos requested that Ms. Basoco provide her with certain sections of the SPM in a Word document. Ms. Basoco converted the pdf on the HR website into Word, and provided it to Ms. Castellanos. Ms. Basoco warned Ms. Castellanos that, as they had previously

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<sup>8</sup> Because of the length of the documents, the attachments to Ms. Killourie’s email are not included. A copy of the Appendix F (MOU Version 3), which was in the SPM forwarded by Ms. Killourie to Ms. Castellanos, is included.

<sup>9</sup> Because of the length of the documents, the attachments to Ms. Castellanos’s email are not included. A copy of the Appendix F (MOU Version 3), which was in the SPM forwarded by Ms. Castellanos to Ms. Basoco, is included.

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discussed, each time a conversion takes place, they run the risk of data corruption. She further explained, as she has previously on several occasions, that she was not the custodian of the SPM. (Exhibit S)<sup>10</sup> The converted version of the SPM contained MOU Version 2. Later that day, Ms. Castellanos emailed Ms. Basoco again requesting that she replace three policies in the SPM, which she provided. (*Id.*)

On June 6, 2016, Ms. Basoco published an updated version of the SPM. However, this uploaded version of the SPM contained MOU Version 3. ([Staff Policy Manual](#), June 6, 2016) On June 13, 2016, Ms. Basoco emailed Ms. Castellanos that SPM had been uploaded. She noted in her email that the pdf of the SPM had become more unstable, had failed to save numerous times, and Ms. Basoco had to create a copy of the file for publication. (Exhibit T) Ms. Basoco is uncertain as to how the SPM that Ms. Castellanos provided her on February 9, 2016 containing the “working” MOU Version 3 ended up published on June 6. Ms. Basoco believes that this may have been the most recent version of the SPM that she had in a Word version, or that she copied the wrong version. Neither Ms. Basoco nor Ms. Castellanos had any knowledge that the wrong version of the SPM was published or that MOU Version 3 was contained in the June 6th SPM. Ms. Castellanos first learned that the wrong MOU was published when Ms. Bliss emailed her, Ms. Basel, and Vice Chancellor Shelton-Johnson on February 14 asking for an explanation. (Exhibit U)<sup>11</sup> Ms. Basoco first learned of the MOU issue after the February 28 Presentation.

When Ms. Basoco published the August 16, 2016 version of the SPM on September 7, 2016, she used a converted version of the June 6th SPM. This is the current version of the SPM, which is located on the Human Resources website, and contains MOU Version 3. ([Staff Policy Manual](#), August 16, 2016)

- (b) The Human Resources employees involved in the editing of the MOU did not violate Arizona law, but the Human Resources Department was careless in their management of the MOU and SPM.

Pursuant to Arizona law, a person commits forgery if, with intent to defraud, the person (1) falsely makes, completes or alters a written instrument; or (2) knowingly possesses a forged instrument; or (3) offers or presents, whether accepted or not, a forged instrument or one that contains false information. A.R.S. §13-2002. Here, there was clearly no intent to defraud, so there can be no forgery.

Instead, what transpired is a complete lack of document and version control.<sup>12</sup> No one in Human Resources appeared willing to take ownership as the custodian of the SPM. Multiple versions of the SPM were emailed back and forth; versions were posted to the HR website, taken back down,

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<sup>10</sup> Because of the length of the document, the attachment to Ms. Basoco’s email is not included.

<sup>11</sup> The attachments to Ms. Bliss’s email are not included. The three versions of the MOU attached can be found at Exhibit A.

<sup>12</sup> Despite research being done on the cost of purchasing and implementing policy tracking software over a year ago, no progress has been to date. Even without policy tracking software, Human Resources should have had more controls in place to track versions of and changes to the SPM.

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and posted again. Edits to the SPM were sometimes made in Word versions, and other times in pdfs. No standard naming convention was used. On several occasions, the entire SPM was replaced, while on others only individual policies were modified or replaced. No consistent process exists for the maintenance and publication of the SPM.

Despite Ms. Basoco telling employees in Human Resources on multiple occasions that she was not the custodian of the SPM and could not confirm whether she had the current Word version, Human Resources continually requested the “current” version of the SPM from Ms. Basoco when they needed to make changes. Moreover, when Human Resources provided a version of the SPM for publication, on several occasions it was the wrong version, or they decided within a day or two that they needed to publish a different version.

Finally, Human Resources should not have edited the pdf of MOU Version 1 while maintaining the original signatures. The signatures could have been removed, or considering the document was only one page of text, it could have easily been retyped. There seemed to be a lack of understanding by Human Resources that the document they were editing and emailing to multiple employees as a “working document” was a signed agreement. While the evidence strongly supports a conclusion that the publication of MOU Version 3 was inadvertent, Human Resources publication of the wrong MOU and SPM has only enhanced the classified staff’s lack of trust in Human Resources and a belief that Human Resources lacks accountability.

**B. CSC BOARD COMPLAINT - MARCH 28, 2017**

On March 28, 2017, Ms. Bliss made another presentation at the Governing Board Meeting in her capacity as CSC President. After discussing the District’s strategic commitment to develop and grow its employees through a culture of collaboration and communication, Ms. Bliss discussed the positive response she received to her February 28 Presentation from the classified staff. In contrast, Ms. Bliss claimed the CSC Officers received a negative and possibly retaliatory reaction from Chancellor Harper-Marinick and Vice Chancellor Shelton-Johnson to the February 28 Presentation.

Other than the allegations raised in the March 28 Presentation, the CSC Officers have not identified any other complaints of retaliation by Chancellor Harper-Marinick or Vice Chancellor Shelton-Johnson.

1. Chancellor Harper-Marinick did not engage in retaliatory conduct at the March 1, 2017 meeting with the CSC officers.
  - (a) On March 1, 2017, the Chancellor attended a previously scheduled meeting with the CSC Officers.

On March 1, 2017, the day after Ms. Bliss’s February 28 Presentation, Chancellor Harper-Marinick attended a regularly scheduled meeting between her and the CSC Officers with her Chief of Staff, Darcy Renfro. Four of the five CSC Officers were present at the meeting. Ms. Bliss was unable to attend. The Chancellor started the meeting by discussing the February 28

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Presentation. According to the CSC Officers, the Chancellor was upset and frustrated with them for not coming to her first with their concerns about Human Resources prior to raising them with the Governing Board.

Some of the CSC Officers apologized for not coming to the Chancellor. Prior to the February 28 Presentation, the CSC Officers discussed raising their concerns about the Human Resources Department to the Chancellor first. While some officers advocated for notifying the Chancellor first, the CSC Officers ultimately decided to bring their concerns to the Governing Board as some of the officers were concerned that the Chancellor would try to talk them out going to the Board.<sup>13</sup>

During the meeting, the Chancellor asked the CSC Officers when they had ever come to her with issues that were not addressed. Ms. Hicks spoke up and raised concerns about the Chancellor's lack of response to a complaint letter Ms. Hicks received from her constituents and provided to the Chancellor. The letter, sent on behalf of multiple employees, expressed concern about unfair treatment by certain leaders at Chandler-Gilbert Community College. After she received the letter, the Chancellor delegated the investigation to Vice Chancellor Shelton-Johnson, who, without consulting the Chancellor, delegated the investigation to Ms. Barbara Basel. The Chancellor told Ms. Hicks that she was unaware that the matter had not been resolved. Ms. Hicks responded that the Vice Chancellor should have been communicating that information to the Chancellor, and that the Chancellor had an obligation to follow up as the complaint letter had been addressed to her. The Chancellor, however, believes her response was prompt and appropriate. She spoke to the college President about the issues and delegated further investigation to her Vice Chancellor of Human Resources. According to the Chancellor, she regularly delegates to her Vice Chancellors issues that fall within their purview. She is respectful of their role in the organization and delegates to them as appropriate.

(b) Chancellor Harper-Marinick's response to the CSC Officers' allegations.

Admittedly, Chancellor Harper-Marinick felt blindsided by the February 28 Presentation. It was the first time she heard about these allegations. The Chancellor believed she had demonstrated her willingness to be inclusive and collaborative with the CSC Officers. According to the Chancellor, she was working to develop the relationship between her, the CSC, and the CSC Officers. After their election, the Chancellor offered to meet monthly with the CSC Officers. Additionally, the Chancellor opened her Chancellor's Executive Council ("CEC") meetings to Ms. Bliss, which had not previously been open to employee group representatives. Moreover,

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<sup>13</sup> About one month prior to the February 28, 2017 Governing Board meeting, the CSC Officers met, at their request, with Governing Board President, Alfredo Gutierrez, for over an hour to discuss their concerns about the Human Resources Department, including their perceived lack of responsiveness and their overall belief that Human Resources was not looking out for the employees' interests. Additionally, they discussed policy development and the role of classified staff employees in the negotiation of policy. According to one CSC Officer, although Mr. Gutierrez appeared to be very concerned, he stated that unless the CSC Officers were willing to bring these issues up in a more public forum, there was not much that he could do.

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because the Chancellor met with the CSC Officers on a monthly basis, she hoped that the CSC Officers would raise any concerns with her prior to bringing them to the Governing Board.

As for the two comments raised by Ms. Bliss in the March 28 Presentation, the Chancellor admits she made a comment to the CSC Officers that no one forces her to meet with anyone. However, according to the Chancellor, her quote was taken out of context. The prior Chancellor, Dr. Glasper, had not met with the employee group representatives on a regular basis, and Chancellor Harper-Marinick wanted the CSC Officers to understand that she was meeting with them by choice because she wanted to develop the relationship between her, the CSC, and the CSC Officers.

In addition, during the March 1<sup>st</sup> meeting, the Chancellor did question whether Ms. Bliss claimed that the Chancellor was too busy for them to come to her with the allegations. According to the Chancellor, she heard from other attendees at the Governing Board meeting that Ms. Bliss had alleged that the CSC Officers tried to bring the MOU issue to the Chancellor, but she was too busy.<sup>14</sup>

- (c) The evidence does not substantiate a claim of retaliation by the Chancellor.

Although the March 28 Presentation does not specifically accuse the Chancellor of retaliation, to the extent the CSC is raising such an allegation, the Chancellor's conduct on March 1, 2017 does not rise to the level of retaliation. In the March 28 Presentation, the CSC Officers highlighted two comments made by the Chancellor at the March 1 meeting – her comment about not having to meet with the CSC Officers and her comment that Ms. Bliss's alleged statement that she had tried to bring the MOU issue to the Chancellor was a lie.

Neither of the two comments made by the Chancellor at the March 1 meeting constitutes retaliation under any District policy or under any applicable law. At the meeting, the Chancellor did express her frustration with the CSC Officers for not bringing the allegations to her attention prior to raising them at the Governing Board meeting, so that she could have had an opportunity to respond. No adverse action was taken by the Chancellor against any CSC Officer in response to the February 28 Presentation.

2. Vice Chancellor Shelton-Johnson did not engage in retaliatory conduct at the CPD committee meeting on March 9, 2017.

- (a) On March 9, 2017, the Vice Chancellor attended a meeting of the CPD committee.

On March 9, 2017, the Vice Chancellor attended the CPD committee meeting on the invitation of the CPD committee. According to multiple witnesses at the meeting, the Vice Chancellor stated

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<sup>14</sup> Whether or not Ms. Bliss made this assertion to anyone at the Board meeting is unknown. Ms. Bliss did not, however, make this allegation during her February 28 Presentation.

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to the CPD committee that the Administration “does not negotiate with employees,” and that the Administration “may unilaterally change the Staff Policy Manual without the need for employee ratification.” Mr. Fulton asked the Vice Chancellor directly what the work of the CPD meant if the Administration was not negotiating policies. According to Mr. Fulton and other witnesses, the Vice Chancellor’s response was that: (i) she expressed absolute support for continuing to collaborate with employees, insofar as “collaboration” meant receiving inputs and interests from employees; (ii) that everything in the SPM was up for discussion with the employees; and (iii) the Administration would not be negotiating policies, insofar as “negotiation” involved employees approving policy as a condition of its being adopted. In addition, the Vice Chancellor requested that policy C-5, Collaborative Policy Development, be brought back to the CPD for further consideration, although the Vice Chancellor had already informed Mr. Fulton and Ms. Basel that the policy, along with seven others, had already been approved by the Chancellor.

Following the meeting, Mr. Mitchell drafted an email entitled “Crisis of confidence with HR,” which was sent to the CSC distribution list. (Exhibit V) In the email, Mr. Mitchell starts by explaining, as background, the broad ramifications of the District’s Classification and Compensation study, which at the time was set to rollout July 2017. According to Mr. Mitchell’s email, numerous policies would be impacted by the implementation of the Classification and Compensation study. He further noted that despite numerous requests, the Administration had been slow to provide the requested information and there was a substantial amount of work facing the CPD team prior to roll-out. According to Mr. Mitchell, however, the CPD’s ability to carry out this work and other policy development was threatened by the Vice Chancellor.

Mr. Mitchell goes on to explain that on December 26, 2016, Mr. Fulton and Ms. Basel, as co-chairs of the CPD, received an email from the Vice Chancellor. In her email, the Vice Chancellor stated, in pertinent part:

[a] small detail, but meaningful one is that we are not negotiating any aspect of policy but rather we are collaborating on the development by seeking employee input. I think that unfortunately the word ‘negotiate’ carries a connotation which implies approval is necessary for policies to move forward, which I know you realize. I only mention it as you begin to this lead this group, nomenclature will be important.

(Exhibit W) According to Mr. Mitchell, the Vice Chancellor was concerned that the C-5 Collaborative Development Policy would prevent the Administration from making unilateral changes to the SPM, which he believes is exactly the point of the policy and collaborative process.

In his email, Mr. Mitchell expressed confusion from the CSC delegation as they were unsure of the purpose of CPD and their role on the committee. He further expressed their dismay with what they believed to be the Vice Chancellor’s desire to remove negotiation and employee approval from the CPD process. Mr. Mitchell concluded by stating that the issues with CPD, questions regarding the Classification and Compensation study, issues with integrity of the SPM, and acts

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of retaliation because of Ms. Bliss's February 28 Presentation were bringing the CSC to a crisis of confidence with the Division of Human Resources. (Exhibit V)

On March 20, 2017, Ms. Bliss forwarded Mr. Mitchell's email to Chancellor Harper-Marinick. The Chancellor responded that morning. She thanked Ms. Bliss for bringing it to her attention, agreed to review the issue, and offered to set up a meeting for the CSC Officers to discuss their concerns with her and Vice Chancellor Shelton-Johnson after spring break. A meeting was scheduled for April 11, 2017, but was put on hold once the investigation began into the CSC Board complaints.

(b) Vice Chancellor Shelton-Johnson's response to the CSC March 28 Presentation.

Although the Vice Chancellor disagrees with the exact wording of the quote, she did attempt to explain her understanding of negotiations between classified staff and the Administration. The Vice Chancellor did not tell the CPD that they could not participate in the policy development process. Instead, the Vice Chancellor attempted to explain that the goal of the CPD is to make recommendations that encompass the concerns brought to the table by all the representatives, and to provide these recommendations and concerns to the Chancellor for a final decision.

In addition, the Vice Chancellor admitted that she considers the policy development process with the faculty to be somewhat different than with the staff. According to the Vice Chancellor, this is because the faculty is recognized as an official external association with authority to negotiate the Residential Faculty Policies ("RFP"). Contrary to the allegations by the CSC Officers, the Vice Chancellor claimed that she did not deny the CSC the ability to participate in the collaborative policy development process. Instead, she envisioned that the CPD would still use the collaborative process, but emphasized that ultimately the final decision was the Chancellor's.

(c) The evidence does not substantiate a claim of retaliation by the Vice Chancellor.

The Vice Chancellor's statement and belief that the Administration does not negotiate with employees does not constitute retaliation under any the District policy or under law. For conduct to be retaliatory, the protected activity here, the February 28 Presentation, has to be the cause of the adverse action. The Vice Chancellor's statement at the March 9, 2007 CPD meeting, however, is entirely consistent with statements she made prior to the February 28 Presentation; including in an email to Mr. Fulton and Ms. Basel dated December 27, 2016. Because the Vice Chancellor had already voiced her concerns regarding C-5, the Collaborative Policy Development Policy, and had stated her position that the administration does not negotiate with employees to the extent negotiation requires employee approval, her statements cannot be in retaliation for the February 28 Presentation. Similarly, the Vice Chancellor's position regarding the faculty's meet and confer process was consistent with her position prior to February 28, and was not retaliatory.

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Whether or not the Vice Chancellor's interpretation of the policy-making process between the classified staff and the Administration is correct is outside the scope of this report. It is, however, clear that there is confusion and conflict between the CSC and the Administration over the Administration's ability to add or modify policies without approval from the CSC. Many of the individuals interviewed for this report, including from the Administration, have a long-held belief that the District's policies do not allow such unilateral changes. The Vice Chancellor was well aware of the classified staff's position on the development of policy and the strong feelings it engenders. Given the strained relationship between Human Resources and the CSC and the timing of March 9 meeting so soon after the February 28 Presentation, it is not surprising that multiple attendees from the meeting believed that the Vice Chancellor's comments were in retaliation for the February 28 Presentation. According to various CPD members, this was the first time the Vice Chancellor had publicly stated that the Administration does not negotiate with employees. Many of the CPD members in attendance believe this is in direct contradiction to current and past policies and practices, and were taken aback by the Vice Chancellor's hardline approach to what they believe is a major shift in policy development at the District. Nevertheless, while the Vice Chancellor's timing and approach to handling her concerns with the C-5, Collaborative Policy Development Policy, may have been imprudent, there is simply no evidence that her actions were in retaliation for the February 28 Complaint.

#### **IV. RECOMMENDATIONS**

Based on the above findings, the following measures would be appropriate to bring this matter to a conclusion:

- Establish clear parameters for the relationship between the CSC and the Human Resources Department, including better defining the reporting relationship between the CSC Officers and their manager.
- Because the CSC Officers deal regularly with employee issues and often act as an advocate and/or liaison to Human Resources, the District should consider having the CSC Officers report to a manager outside of the Human Resources Department to avoid conflicts of interest.
- Given the unique role of the CSC Officers, no employee outside of the CSC Officers should be on the distribution list. Ms. Tormey should transfer ownership of the CSC Officers distribution list to an officer on the CSC.
- Implement a policy tracking system, either by developing an internal tracking system or purchasing third party software. Have a designated custodian and limit the number of editors to the actual policy documents. Conduct an audit of the SPM to ensure that correct versions of all policies are contained in the current published SPM.
- Published policies should have accurate dates and versions printed on the document. For example, all of the published SPM's since July 15, 2015, state on the cover page of the

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document that the effective date is May 1, 2013, and the most recent amendment is effective July 1, 2015, even on the version currently published on the Human Resources website which was amended August 8, 2016.

- The District should take affirmative steps to rebuild the perception of Human Resources throughout the District. Although this report focused on the specific allegations raised in the February 28 March 28 CSC Presentations, multiple witnesses, including some in the Human Resources Department, expressed serious concerns about a lack of accountability and responsiveness in the Human Resources Department. Many of the complaints raised by the CSC Officers could have been avoided had there been a better relationship between Human Resources and the CSC, and if there was trust in the Human Resources Department.

**V. CONCLUSION**

Thank you for the opportunity to assist Maricopa County Community College District in conducting this investigation. Should you wish to discuss any aspect of this report or my investigation, please do not hesitate to contact me.

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