

NICOLE MILLER & ASSOCIATES, INC.

PRIVATE INVESTIGATIONS PI 28276

PALO VERDE COMMUNITY COLLEGE DISTRICT

INVESTIGATION OF FACULTY COMPLAINTS

SUMMARY REPORT OF INVESTIGATION AND FINDINGS

Date of Report:

Friday, August 4, 2023

Reporting Investigator:

Alyssa Jarvis, Senior Investigator

This report contains information, which may be protected under State or Federal law, or Palo Verde Community College District ("District") Board Policy, as confidential, or may be protected by attorney-client or attorney work product privileges. Accordingly, this report should not be disclosed except to District administration on a need-to-know basis, or upon consultation with legal counsel. Should this report be released upon the direction of legal counsel, please notify Nicole Miller & Associates, Inc. The District granted the investigator full discretion to conduct the investigation, and the District did not attempt to influence or direct the investigation or its outcome. The investigator maintained full access to witnesses, documents, and other relevant evidence throughout the course of the investigation.

While all due care has been taken in the preparation of this report, Nicole Miller & Associates, Inc., assumes no responsibility and shall not be liable to any person for any loss, damage, or expense caused by decision making, reliance on, or distribution of the findings and conclusions in this report. Investigators and staff at Nicole Miller & Associates, Inc., are retained to perform impartial, fact-finding investigations, not legal services, and therefore do not make legal recommendations, analysis, and/or conclusions. The information contained within this report has been developed based on a reliance of information from relevant witnesses, evidentiary documentation, and/or media. Nicole Miller & Associates, Inc.'s analysis of board policy and/or administrative regulation as it pertains to the investigative findings does not constitute professional legal opinion or advice.

EXECUTIVE SUMMARY

Nicole Miller & Associates, Inc., conducted an investigation into multiple complaints raised by and on behalf of Palo Verde College ("PVC" or "College") faculty, as publicized by the faculty Association at a Board of Trustees ("Board") meeting on May 9, 2023. The concerns covered a broad range of topics, from workplace safety to curriculum and shared governance, and the District provided a written response to the complaints on May 19, 2023, which established that a majority of the concerns were not factual. The faculty were not

satisfied with the District’s response and initiated a vote of no confidence against the College Administration, and Nicole Miller & Associates, Inc., was retained to conduct a third-party investigation into the complaints.

Nicole Miller & Associates, Inc.’s findings were overall closely-aligned with the District’s initial written response, with some detail omissions and discrepancies that were either not relevant to the alleged policy violations and overall findings, or were not known to the Administration at the time the written response was drafted. The exception was the faculty’s claim that a written employment offer was extended to a nursing instructor (the only applicant) in May 2022—and the employment contract was signed—before completing the formal hiring and interview process (Issue No. 11), which was sustained. In totality, while many of the specific facts and timelines shared by faculty were determined to be factual as supported by evidence, the evidence did not support the assertions regarding policy violations and unilateral decision making, or the perception-based claims related to malintent and retaliation. Instead, many of the complaints were based on misperceptions regarding intent (Issues 3, 4, 12 and 13); a lack of context surrounding justifiable circumstances outside the Administration’s control, or actions taken within their purview (Issues 2, 5, 8, 9, 10 and 13); and miscommunications or errors where fault or blame could not be attributed to a single party or did not rise to a level of unprofessionalism, mismanagement, or a violation of policy (Issues 1, 6, and 7).

INVESTIGATIVE PROCEDURES

In conjunction with the law firm of McDougal, Boehmer, Foley, Lyon, Mitchell & Erickson, and pursuant to the attorney-client privilege, on Tuesday, May 23, 2023, Joshua Taylor, Senior Associate, requested on behalf of the Palo Verde Community College District (“District”) that Nicole Miller & Associates, Inc., conduct an investigation into multiple complaints raised by and on behalf of PVC faculty, as publicized at the May 9, 2023, Board meeting.

On June 6, 2023, the investigator interviewed Sarah Frid, Academic Senate President, followed by Richard Castillo, Palo Verde Community College Association (“PVCCA” or

“Association”) President. Mr. Castillo’s interview was continued into June 7, 2023, given the large volume of information Mr. Castillo had to share.

Between June 8, 2023, and June 12, 2023, the investigator interviewed Biju Raman, Dean of Instruction and Student Services; Stephanie Slagan, Assistant Superintendent/Vice President of Administrative Services and College Advancement; Dr. Donald Wallace, Ph.D., Superintendent/President; and Cecilia “Cecy” Garcia, Assistant Superintendent/Vice President of Human Resources.

Between June 22, 2023, and July 5, 2023, the investigator interviewed 15 witnesses identified by Mr. Castillo, Ms. Frid, and the aforementioned Administrators, including, William Smith, former Interim Assistant Superintendent/Vice President of Instruction and Student Services; Crystal Tautala, Fiscal Services Specialist; Maria Kehl; Associate Dean of Instruction and Student Services; Mario Hale, Director of Facilities & Operations; and Fulltime faculty: Derek Cople (also the faculty Association Vice President); Timothy Bolin (also a Division Cochair); Jennifer Faux Campbell (also a Division Cochair); Rosa Martin; Araceli Alvarez; Sarafina Redwine; Kim Dieu; Nidhi Patel; Michael Calabrese; Rene Lopez-Roedel; and Ilona Missakian.

Lonnie Mills, former Nursing Instructor, was interviewed on August 1, 2023.

All of the above interviews were conducted via *Zoom*. All individuals interviewed for purposes of the investigation were notified of the District’s retaliation policy and were further advised their statements, as provided to the investigator, would not be shared with any individual unless, as part of the investigation, they have a need to know.

The District granted the investigator full discretion to conduct the investigation, and the District did not attempt to influence or direct the investigation or its outcome. The investigator maintained full access to witnesses, documents, and other relevant evidence throughout the course of the investigation. The investigator made her determinations based on the statements of witnesses and the evidence collected.

The following 22 individuals were interviewed for purposes of the investigation:

1. **Sarah Frid**, Academic Senate President, (June 6, 2023)
2. **Richard Castillo**, faculty Association President (June 6, 2023 & June 7, 2023)
3. **Biju Raman**, Dean of Instruction and Student Services (June 8, 2023)
4. **Stephanie Slagan**, Assistant Superintendent/Vice President of Administrative Services and College Advancement (June 8, 2023)
5. **Dr. Donald Wallace, Ph.D.**, Superintendent/President/CEO (June 9, 2023)
6. **Cecelia “Cecy” Garcia**, Assistant Superintendent/Vice President of Human Resources (June 12, 2023)
7. **Mario Hale**, Director of Facilities & Operations (June 22, 2023)
8. **Derek Copple**, faculty Association Vice President (June 22, 2023)
9. **Timothy Bolin**, Fulltime faculty (June 23, 2023)
10. **Rosa Martin**, Fulltime faculty (June 26, 2023)
11. **Jennifer Faux-Campbell**, Fulltime faculty (June 26, 2023)
12. **Araceli Alvarez**, Fulltime faculty (June 26, 2023)
13. **Dr. Sarafina Redwine, Ph.D.**, Fulltime faculty (June 26, 2023)
14. **Kim Dieu**, Fulltime faculty (June 27, 2023)
15. **Dr. Nidhi Patel, Ph.D.**, Fulltime faculty (June 27, 2023)
16. **Michael Calabrese**, Fulltime faculty (June 30, 2023)
17. **Rene Lopez-Roedel**, Fulltime faculty (June 30, 2023)
18. **Ilona Missakian**, Fulltime faculty (June 30, 2023)
19. **William Smith**, former Interim Assistant Superintendent/Vice President of Instruction and Student Services (July 5, 2023)
20. **Crystal Tautala**, Fiscal Services Specialist (July 5, 2023)
21. **Maria Kehl**, Associate Dean of Instruction and Student Services (July 5, 2023)
22. **Lonnie Mills**, former faculty (August 1, 2023)

The following documents and emails were reviewed in preparation of the summary:

1. Document, "Initial Faculty Complaint to the Board," May 9, 2023, 5 pages
2. Document, "District's Response to the Faculty Complaints, with Attachments," May 19, 2023, 564 pages
3. Document, "PVCCA Collective Bargaining Agreement," July 1, 2022, 212 pages

Additional Documents Reviewed - Issue No. 1

4. Document, "CUPCCAA Documents & Bidding Procedures," 8 pages
5. Document, "PVC Program Review Annual Snapshot – Professional Technologies Division," September 21, 2020, 1 page
6. Document, "PVC Program Review Annual Snapshot – Professional Technologies Division," September 2021, 2 pages
7. Document, "Text Messages Between Calabrese and Raman," May 12, 2023 – May 16, 2023, 2 pages
8. Email, "RE: Welding booths (Please confirm)," May 23, 2023, 1 page
9. Email, "Notes from facility and safety meeting," June 1, 2023, 1 page

Additional Documents Reviewed - Issue No. 2

10. Document, "Schedule of Classes – Fall 2023," 40 pages
11. Document, "Schedule of Classes – Summer 2023, 18 pages
12. Email, "Office Hours and Teaching Schedules," February 7, 2019 – January 31, 2020, 4 pages
13. Email, "RE: Proposed Timeline – Modified," January 31, 2023 – February 1, 2023, 6 pages
14. Email, "Summer and Fall semester schedules," March 29, 2023, 1 page
15. Email, "No Fall or Summer 2023 Schedule posted on PCV Services," April 10, 2023, 2 pages
16. Email, "Posting FA 23 schedule pdf & student services live/registration dates to be uploaded," April 11, 2023, 1 page
17. Email, "Re: No Fall or Summer 2023 Schedule posted on PCV Services," April 12, 2023 – April 13, 2023, 3 pages

18. Email, "FW: No Fall or Summer 2023 Schedule posted on PCV Services," April 12, 2023
– April 13, 2023, 3 pages
19. Document, "Emails Regarding Schedules," April 14, 2021 – May 12, 2023, 23 pages
20. Email, "RE: SP24 Scheduling," April 19, 2023 – April 20, 2023, 5 pages

Additional Documents Reviewed - Issue No. 3

21. Email, "FW: Updated MOU," March 30, 2023, 2 pages
22. Document, "Emails Regarding Task Force Data Review," March 1, 2023 – April 18, 2023, 7 pages
23. Email, "Dual Enrollment Senate Task Force," April 13, 2023, 2 pages
24. Document, "HIS 130-06 Colleague Data – Course Cancelled/Roster," 2 pages

Additional Documents Reviewed - Issue No. 4

25. Email, "FW: Evaluations Update," November 3, 2022, 2 pages

Additional Documents Reviewed - Issue No. 5

26. Document, "APs Provided by Ms. Frid – AP 7210-0; AP 7211; AP 7250; AP 7265,"
Various Dates, 17 pages
27. Email, "BPs and APs Updated," May 17, 2023, 3 pages
28. Email, "RE: Tomorrow's meeting," June 5, 2023 - June 6, 2023, 3 pages
29. Email, "FW: AP7250-1 for your Review and Comment," June 6, 2023, 4 pages

Additional Documents Reviewed - Issue No. 6

30. Document, "Training and Clearance Emails Provided by Mr. Castillo," 38 pages
31. Document, "Scheduling and Clearance Emails Provided by Ms. Kehl," 57 pages
32. Document, "Emails Regarding Link to ISP Clearance and Training Packet," December
6, 2022 – December 8, 2022, 4 pages
33. Email, "RE: ISP Course," January 6, 2023, 2 pages
34. Email, "FW: ISP Course," January 6, 2023, 1 page
35. Email, "Brown Card and Chits," March 10, 2023, 1 page

Additional Documents Reviewed - Issue No. 7

36. Document, "2022-2023 Makerspace MOUs," August 1, 2022 – April 4, 2023, 10 pages
37. Document, "Highlights for 2022 and 2023 i3 Makerspace," Not Dated, 2 pages
38. Document, "2022 Document File Provided by Ms. Missakian – Collaborative and Preparation Emails as Faculty Team Member Under Peter Martinez as Coordinator," May 2022 – November 2022, 111 pages
39. Document, "2023 Document File Provided by Ms. Missakian – Notes and Emails RE: Work Performed as Lead/Coordinator," May 2022 – November 2022," January 25, 2023 – May 3, 2023, 2023, 233 pages
40. Email, "RE: Ilona Missakian – Makerspace MOU Limit," April 21, 2023, 3 pages
41. Document, "Absence From Campus Forms – NACCE Conference," April 3, 2023 - May 11, 2023, 4 pages
42. Email, "RE: English faculty recommendation for 2023-2024 academic year," May 26, 2023 – June 7, 2023, 23 pages
43. Document, "Puente Program MOUs," September 23, 2021 - September 19, 2022, 3 pages
44. Document, "Written Timeline and Emails regarding Makerspace MOUs – Provided by Mr. Castillo," Various Dates, 18 pages
45. Document, "Time Reports for Extra Days Service – Missakian," January – April 2023, 4 pages

Additional Documents Reviewed - Issue No. 8

46. Document, "Complaint Emails from Prisons," Various Dates, 29 pages
47. Document, "Spreadsheet List of Petitions for Dr. Patel," Fall 2021 – Fall 2022, 3 pages
48. Document, "Complaints and Petitions Backup," Various Dates, 98 pages
49. Email, "Re: No-shows for Redwine's PSY 201.02.03," September 28, 2022, 3 pages
50. Document, "Emails Regarding Dr. Patel's Spring 2023 Course Load," October 6, 2022 – October 10, 2022, 10 pages
51. Email, "Re: Nidhi Meeting – recap and next steps," January 25, 2023 - February 14, 2023, 11 pages

52. Document, "Drop, No-Show, Enrollment Data for Dr. Patel," January 26, 2023, 10 pages

Additional Documents Reviewed - Issue No. 9

53. Document, "AP 5500 – Standards of Conduct," July 26, 2011, 3 pages

54. Document, "Canvas Messages Between Ms. Martin and STUDENT #1," Various Dates, 12 pages

55. Document, "Text Messages Between Martin and Redwine," August 16, 2019, 2 pages

56. Email, "Re: Meeting with student Roberta Camacho," August 19, 2019 – August 20, 2019, 2 pages

57. Document, "Canvas and Email Messages Between Dr. Patel and STUDENT #1," Various Dates, 118 pages

58. Document, "Dr. Redwine's Letter of Complaint," September 19, 2022, 2 pages

59. Document, "Canvas Messages Between Dr. Redwine and STUDENT #1," Various Dates, 15 pages

60. Document, "Ms. Alvarez's Letter of Complaint," June 1, 2023, 2 pages

61. Document, "Voice Message Transcripts from STUDENT #1 to Ms. Alvarez," January 27, 2023 – April 26, 2023, 6 pages

62. Document, "Roberta Camacho's Statement Provided to HR after May 23, 2023 Board Meeting," May 24, 2023, 2 pages

63. Document, "Roberta Camacho's Statement to the Board," June 13, 2023, 2 pages

Additional Documents Reviewed - Issue No. 11

64. Document, "Salary Schedule – 177 Days/10 Months," July 1, 2022, 1 page

65. Email, "Lonnie Mills/Preemployment," May 31, 2022, 4 pages

66. Email, "PVC Preemployment Packet," May 31, 2022, 1 page

67. Document, "Full-Time Salary Placement – Lonnie Mills," May 31, 2022, 1 page

68. Document, "Offer/Contract For Academic Employment," June 1, 2022, 1 page

69. Email, "RN Instructor Interview," June 7, 2022, 1 page

Additional Documents Reviewed - Issue No. 12

70. Document, "Mr. Raman's Acting Educational Administrator Contract," March 22, 2023, 2 pages
71. Document, "Emails with Union RE: Retirement Incentives," February 22, 2023 – March 22, 2023, 6 pages
72. Document, "Notice of Placement of Administrative Leave," March 21, 2023, 1 page
73. Email, "Update of Willie Smith," March 22, 2023, 2 pages
74. Document, "Shelley Hamilton Resignation and Complaint Information," Various Dates, 2 pages
75. Document, "Shad Lee Resignation Information," September 22, 2020, 8 pages

Additional Documents Reviewed - Issue No. 13

76. Document, "AP 2510 – Collegial Governance: Participation in Local Decision Making," August 10, 2021, 3 pages
77. Document, "Adopted Resolution Form For Senate Review Of New Programs – HS Equivalency Certificate Program," February 2023, 3 pages

STATEMENT OF PURPOSE AND EVIDENTIARY STANDARD

The purpose of this investigation is to make factual findings on the specific allegations raised by PVC faculty, as presented to the Board on May 9, 2023. For all factual findings, the investigator used a preponderance of the evidence standard. This means that when taking all evidence and reasonable inferences into account, including credibility determinations, if the investigator determines it is more likely than not that an allegation is true, then a finding is made that the allegation is sustained. This is sometimes referred to as a "greater than 50%" standard. Where there is not sufficient evidence to meet this threshold, even if there is some supporting evidence, the finding must be that the allegation is not sustained. Where there is compelling evidence to determine that an allegation is proven to be not true, where the allegation is not based on any facts or evidence, or where the factual contentions reported in support of an allegation were proven to be true but did not amount to a violation of applicable board policy/regulation, the finding is that the allegation is unfounded.

FINDINGS

Issue No. 1

Administration failed to address the need for necessary indoor air ventilation and filtration systems for the CTE Welding and Building Construction lab classrooms.

These ventilation and filtration systems are needed for eliminating dangerous toxic fumes and pollutants, which are known to the State of California to cause diseases like cancer, so our CTE faculty and students have safe and clean air to breathe. The Administration has repeatedly denied every CTE faculty's request or bogged the issue down in paperwork and other obstacles, including this year's budget requests. This failure puts everyone who enters the building, including the CTE faculty and their PVC students, which include local PVHS students who are concurrently enrolled in CTE courses, in danger of harmful respiratory problems. This leaves Palo Verde College open to severe liability.

District's Written Response to Issue No. 1

The overall written finding provided by the District in response to Issue No. 1 states the following:

False. The District has been working to retain a vendor to replace the ventilation and to have air quality tests performed. The District's process is for all requests for funding to be made yearly through the budgeting process and this process is a public document. When faculty submit a request, more information than the cost must be provided to expedite the process. Immediate health and safety issues can always be brought to the Director of Facilities and Maintenance.

The most relevant facts on which the District's finding is based are included below:

As far as the replacement of the ventilation system, the original issue was brought to the business office by the Welding instructor on July 19, 2022. [Ms. Tautala] reached out to the two vendors recommended to the District by [Mr.] Calabrese for his Welding ventilation system. One Vendor, Airgas is from Yuma, Arizona and one vendor is Delta Tech Rancho from Rancho Cucamonga, California. On July 19, [Ms.]

Tautala Reached out to Airgas to request that they register with the District per our CUPCCA Guidelines. On July 21, [Ms.] Tautala reached out to Delta Tech requesting they complete the CUPCCA application and offered assistance to the vendor. This is required by law. After several attempts, neither vendor registered on our CUPCCA pre-qualification application as required. On October 17, there was a directive from the AS/VP of Administrative Services that the District could possibly treat this as a sole source, if the conditions of a sole source were met. Even with a sole source, the vendor still must be registered with the DIR, or the college will be in violation and be subject to fine.

A review of all purchases made by the Welding department was conducted on May 18, 2023. During fiscal year 2022-2023 the Welding Department spent \$38,884.09, none of which was used on the procurement of welding respirators to protect against what the faculty state are toxic fumes and pollutants in the classroom. The District has also not received a request in person or in writing for additional safety equipment or supplies while we work to replace the ventilation system for the 4 booths that are affected.

The District conducted Air Quality testing in the Welding Lab on Tuesday May 16, 2023 using Forensic Analytical Consulting Services, Inc. ("FACS"), which was recommended by Keenan and Associates, the District's Insurance Carrier. Attached is the proposal with FACS. FACS is testing for the following substances and comparing exposure limits set by Occupational Safety and Health Administration ("OSHA"), American Conference and Governmental Industrial Hygienists ("ACGIH"), and National Institute for Occupational Safety and Health ("NIOSH").

[Mr. Hale] is currently working with Lincoln Welding, who is willing to send someone out to renovate the ventilation system based upon the results of the air quality testing that was conducted. Lincoln is willing to provide us with a Sole Source Letter.

Through the BERF Process, teachers let the District know if there is a health and safety issue that needs to be addressed and have resources allocated. The Budget Committee

ran a BERF Process outside of the normal cycle in 2022-2023 because the college was allocated \$1 million in Instructional Equipment Funds. Mr. Lozoya submitted a BERF in Fall 2022 which was reviewed by the Budget Committee's technical review committee and an email was sent to Dr. Wallace on January 20, 2023 ranking all BERF's in order of importance as per the Integrated Planning Manual. Mr. Lozoya's Dust Control System was Ranked # 1 on the list which was approved. Although Mr. Lozoya submitted a BERF with an estimated cost of \$50,000, he did not submit anything as to the type of system needed or where to acquire a system from, making it nearly impossible to reach out to any vendor or get quotes on a system. The District reached out to Mr. Lozoya for more information because all the District had was a price and his BERF. Mr. Lozoya stated "Yes I believe we can finish out the semester. We will try to minimize the amount of cutting and sanding materials inside and do some of the work outside. Thanks".

A review of all purchases made by the Building Trades department was conducted on May 18, 2023. During fiscal year 2022-2023 the welding department spent \$19,037.35, none of which was used on the procurement of Safety masks to protect against the alleged toxic fumes and pollutants in the classroom.

Finding to Issue No. 1

Based on the totality of witness statements and documentary evidence, the allegation that the Administration failed to address the need for necessary indoor air ventilation and filtration systems for the CTE Welding and Building Construction lab classrooms; repeatedly denied requests to replace the ventilation and filtration systems; or bogged down the issue in paper work or other unnecessary obstacles, is unfounded. The evidence established that neither of the air filtration issues were ever presented to Administration as an immediate safety concern, but the Administration nevertheless approved budgets for the projects and/or worked with faculty to secure vendors in a timeline viewed by most witnesses as typical, given the large scale of the projects and the need to complete them during academic breaks. As supported by documentation included in the District's initial response to the faculty complaints, the budget request for the installation of a dust control system in the

Building Construction lab was approved in January 2023, shortly after the BERF was submitted during the Fall 2022 semester.

The evidence established some delays in the process of securing a vendor for the Welding project after Mr. Calabrese began working with the Business Office in May 2022. The initial delays were procedural and stemmed from misunderstandings (despite best efforts) about the bidding process, as well as unresponsiveness from vendors, so Ms. Slagan offered an alternative option of sole sourcing to get around the formal bidding process and expedite the work order. Given Mr. Calabrese expressed that he did not have the experience or knowledge to compile the specs himself, he was advised to work with Mr. Hale for guidance, and the communication between Mr. Calabrese and Mr. Hale (rather than the Business Office) is where the second delay happened. Mr. Calabrese and Mr. Hale have differing perspectives about why the delay occurred—Mr. Calabrese felt Mr. Hale seemed uninterested in helping him so he simply gave up, and Mr. Hale recalled asking Mr. Calabrese to send an email so he could add it to his list of items for follow up. However, Mr. Calabrese and several other witnesses understandably believe that Mr. Hale, as the director of facilities, should have provided more support to Mr. Calabrese and taken more responsibility in moving the project forward. Regardless, as noted above, multiple witnesses affirmed the timeline was typical for replacing “outdated and broken” (albeit, still operable) equipment of this magnitude, and the matter was never presented as an issue of safety until May 9, 2023, at which time the Administration appropriately responded with more urgency (e.g., air quality assessments and an expedited search for vendors).

Issue No. 2

Administration failed to post the Fall Semester 2023 class schedule at least 30 days prior to Priority Registration, as required by Title 5 Regulation. The Administration's consistent failure to post the class schedule as required by State law puts PVC at risk of losing its entire apportionment for Fall Semester 2023. The Administration had to post the Fall class schedule no later than Friday, March 24, 2023. The Administration did not release the Fall class schedule until Monday, April 17, 2023, which was one week before Priority Registration began at PVC. This has been an ongoing issue since the Associate Dean of

Instruction and Student Services has become responsible for the schedule; the Associate Dean has not met the 30-day requirement consistently under her charge.

District's Written Response to Issue No. 2

The overall written finding provided by the District in response to Issue No. 2 states the following:

False. The Complaint misstates the legal requirements and further fails to provide sufficient information regarding the Title 5 Regulation alleged to have been violated to make a finding. The Complaint further misstates the dates the class schedule was posted by the District.

The most relevant facts on which the District's finding is based are included below:

Title 5 states that courses must be published in the official catalog and/or addenda and listed in the schedule of classes. (5 CCR § 58104.) The information that must be published prior to student enrollment is the course type, transferability, major/area of emphasis or GE requirement, and whether the course is Pass/No-Pass. (5 CCR § 55005.) In fact, this information is published in the District's catalog.

Title 5 further requires that a course be reasonably well publicized. (5 CCR § 58104.) The Chancellor's Office has provided a legal opinion that advises that community college districts should not rely exclusively on posting course offerings on the internet to satisfy the requirement that a course is reasonably well publicized, as some students do not have ready access to the internet. The Chancellor's office further recommends that when Districts post on the internet that the class be advertised for a minimum of thirty days. (Id.) However, this legal opinion is not binding authority and relates to when new courses are made so late that they cannot even be listed in the last addendum to the schedule of classes. Specifically, Title 5 states:

Courses which are established or conducted after publication of the general catalog or regular schedule of classes shall be reasonably well publicized.

Accordingly, the District is not in violation of Title 5 or any other binding legal authority. The District further had its auditors look at this issue from the Contracted District Audit Manual, and there is not an issue with this from an external auditor perspective either.

In February of 2023, Division Chairs began sending their Fall 2023 schedules. On March 23, 2023, the last changes from the faculty were submitted.

On March 29, 2023, the Fall 2023 schedule was sent out for the first time.

On April 10, 2023, it was brought to the District's attention that the schedule did not show on the District's services. The District immediately contacted the IT Department, and the problem was fixed. Accordingly, the Fall class schedule was made available on April 10, 2023, seven days prior to April 17, 2023, which was [alleged] by the Complaint.

Finding to Issue No. 2

While the evidence established that Ms. Kehl did not meet the College's self-imposed deadline of posting the Fall 2023 semester course schedule 30 days prior to Priority Registration, which—as discussed in the District's initial response to the faculty complaints—is based on a recommendation from the State Chancellor's Office that is not legally binding, the faculty were unable to provide a specific Title 5 regulation, Ed Code section, or any other policy that specifies a minimum time requirement for advertising courses. Thus, the allegation that Ms. Kehl and the Administration violated College policies or legal mandates and, therefore, put the College at risk of losing its apportionment is unfounded. Though the overall timeline provided by faculty was confirmed by witnesses and documentation (specifically, the fact that the schedule was not posted until April 17, 2023, one week before Priority Registration), the evidence established that Ms. Kehl

completed and submitted the schedule to be posted on March 29, 2023, only three business days past the self-imposed 30-day deadline, which is not excessive and would not have substantially delayed anyone's access to advertised course schedules. The more significant delay to April 17, 2023, was due to technical issues outside of Ms. Kehl's control. Thus, though the District's initial response to the faculty inaccurately accused the faculty of misstating the date the schedule was actually posted (i.e., April 10, 2023, versus April 17, 2023), a detail discrepancy that was viewed by faculty as unfair and intended to portray them negatively to the Board, this discrepancy has no relevance to the allegation about Ms. Kehl's competency and control over the schedule, or about College apportionments.

Multiple witnesses confirmed that Ms. Kehl—as opposed to her predecessors—has had difficulty meeting the 30-day deadline since she took over the duty in January 2020, but the evidence revealed a variety of circumstances, many outside of Ms. Kehl's control (e.g., late requests or changes to individual course schedules from multiple parties, including newly hired faculty members and the prisons; late changes to the academic calendar provided by Admissions and Records; Ms. Kehl's inability to access the program used to build the master schedule), which have contributed to the delays. Of note is that Ms. Kehl was promoted just a few weeks before the COVID pandemic, which caused some significant changes in individual instructor schedules, course modalities, calendars, etc., and likely exacerbated some of procedural and timeline disruptions that have since been prevalent. Thus, though there is understandable frustration from multiple parties (including Ms. Kehl) on the topic of course scheduling and delayed advertisement, the delays have resulted from a combination of factors that cannot be attributed to a single individual.

Issue No. 3

Administration failed to collegially consult, in good faith, with the PVC faculty about expansion of the Dual Enrollment pilot program with Palo Verde High School ("PVHS"). This academic year, the Administration began a pilot program with PVHS about Dual Enrollment courses open to PVHS students and the general public. This pilot program is to last for two years and collect data to review the viability of continuing the program. However, the Administration is planning to expand the program without any data to

support the move, without faculty input, without regard to differing opinions or reservations from both the PVC faculty and the PVHS administration, and without any possibility of full-time PVC faculty teaching the courses. Recently in the last Academic Senate meeting, the approach that was taken by the Acting Vice President of Instruction and Student Services was to create a course with the high school, fill it with students, and tell faculty after the fact that he would cancel the course if that is what the Academic Senate recommended. The Academic Senate unanimously voted to cancel the course while it has a faculty task force look into the matter and make a recommendation. The Acting Vice President has yet to cancel the course.

District's Written Response to Issue No. 3

The overall written finding provided by the District in response to Issue No. 3 states the following:

False. Although Non-CCAP agreements are not required to show that they have been bargained, the District did work with PVCCA. The District has and continues to recognize the Academic Senate's consultation on this academic and professional matter pursuant to Title 5.

The most relevant facts on which the District's finding is based are included below:

With the enactment of Assembly Bill 288 on January 1, 2016, there are two "tracks" for Dual Enrollment: (1) College and Career Access Pathways ("CCAP") track (enacted by AB 288; Educ. Code § 76004), and (2) non-CCAP track (Educ. Code §§ 76001, 76002).

The District has already had non-CCAP/AB 288 agreements in place for several years, including a Memorandum of Understanding with the Needles Unified School District (2017) and an extension of that agreement to PVUSD (2020)

CCAP offerings must follow extensive guidelines as delineated in Assembly Bill 288. Adherence to these guidelines is monitored by the CCCCCO. One specific requirement is that the agreement certifies:

That both the school district and the community college district partners comply with local collective bargaining agreements and all state and federal reporting requirements regarding the qualifications of the teacher or faculty member teaching an AB 288 CCAP Partnership Agreement course offered for high school credit. (Educ. Code § 76004(l).)

However, there is not such a requirement for non-CCAP agreements. Nevertheless, the District approached PVCCA in good faith approximately a year ago regarding a pilot program to have statistically significant data on whether or not to continue and whether or not to expand the District's pre-existing Dual Enrollment Program. Accordingly, although the District was not required to show compliance with local collective bargaining agreements for non-CCAP agreements, the District nevertheless worked with PVCCA before entering the agreements.

The District has further recognized the Academic Senate's consultation on this academic and professional matter pursuant to Title 5 and appreciates its support of the Dual Enrollment program. (5 CCR §§ 51023.3, 53200-53205.) Specifically, the Academic Senate has established a task force to study the Dual Enrollment at Palo Verde Unified at its April 11th meeting, after the District approached the Academic Senate about expanding its existing Dual Enrollment program in PSY [Psychology]. Further, the Office of the Vice President of Instruction and Student Services and administration were not made aware of any decision of the faculty senate to cancel the HIS [History] course at tentatively scheduled at Palo Verde Unified after the April 11th meeting. Accordingly, until such time as a formal communication is received, the HIS course was kept active to facilitate the discussion of the task force, as its stated objectives were the following:

Task: Concerns raised by faculty members of HSBS division regarding Palo Verde College's Dual Enrollment Program brought to Senate Body. Task force mandated to investigate program and relevant data for PSY courses offered at the high school. Task force may recommend the following: continue and expand program, continue with program "as is," discontinue program, or other recommendation.

Because the task force recommendations must be presented and ratified by the whole senate, the Office of Instruction and Student Services was awaiting a clear recommendation from the conclusion of the Senate meeting on May 9, 2023. On May 9, 2023, the Senate Task Force Report indicated that the Senate needed to provide the District with a recommendation on how to proceed with Dual Enrollment, per its responsibilities under 10 + 1. At this time the Dual Enrollment expansion at the Palo Verde Unified is on hold until such time as the future can be discussed collegially with all relevant constituent groups.

Finding to Issue No. 3

Based on the totality of witness statements and documentary evidence, the allegation that the Administration failed to collegially consult, in good faith, with the faculty regarding the expansion of the Dual Enrollment program is unfounded. The investigation did establish that a course was placed on the Fall 2023 schedule before the Senate was notified of the expansion proposal or given an opportunity to provide a recommendation. However, the evidence established that this was a matter of logistics, rather than an effort to prevent collegial collaboration or unilaterally override the shared governance process. As corroborated by faculty, Mr. Raman attended the April 11 Senate meeting with a pre-prepared *PowerPoint* presentation regarding the expansion of the Dual Enrollment program. Whether Mr. Raman was intentionally or unintentionally reserved about sharing that the history course was already on the Fall 2023 schedule—which was a source of discontentment for the faculty—the evidence confirms there was no opportunity for students to enroll in the course at that point in time. Regardless of Mr. Raman's level of forthcomingness as perceived by faculty during the Senate meeting, the decision to add the

course to the schedule was not a significant measure of collegiality or collaboration given the above. At the time the Senate collectively and formally voted to pause the expansion (May 9, 2023), the course was removed the next day (May 10, 2023), before any students were enrolled.

Issue No. 4

Administration failed to follow the faculty evaluation process for part-time faculty involved in the current Dual Enrollment pilot program at PVHS. The Administration violated the faculty evaluation process in the following:

- 1. Failure to notify the appropriate Division Chairs in a timely manner that part-time faculty were to be evaluated;*
- 2. Failure to provide basic information about the faculty evaluated, including the faculty's basic information, such as the course name, the course's location, and the course's modality;*
- 3. Failure to provide the proper evaluation forms to the faculty Division Chairs;*
- 4. Failure to complete the evaluation according to the timeline as required in the Collective Bargaining Agreement;*
- 5. Failure to identify the evaluation as a face-to-face observation, such that the faculty Division Chairs evaluated the part-time faculty as a correspondence instructor, not as in-person, because the Administration miscommunicated that information and other pertinent information; and*
- 6. Failure to provide the results of the student surveys to the faculty Division Chairs to complete the evaluation process as required.*

Despite the challenges noted above, Mr. Raman had the audacity to publicly reprimand those same faculty Division Chairs in a public meeting—in front of their colleagues—for how the evaluation was conducted.

District's Written Response to Issue No. 4

The overall written finding provided by the District in response to Issue No. 4 states the following:

The allegations that the District failed to notify, failed to provide basic information, failed to provide proper evaluation forms, failed to identify the evaluation as face-to-face, failed to provide student evaluations, and publicly reprimanded Division Chairs are false. The allegation that the evaluation was not completed within the required timeframe is partially true. The Administrator Evaluation portion of the evaluation was not completed within the required timeframe for one professor.

The most relevant facts on which the District's finding is based are included below:

With one exception, [the assertion that the District failed to notify Division Chairs of faculty evaluations in a timely manner] is false. All 2022 semester classes started on August 15, 2022. On September 7, 2022, notices to evaluate faculty members were sent to Division Chairs. Because Dual Enrollment is a pilot program, a Dual Enrollment instructor employed by PVUSD was paid through a contract with the Palo Verde Unified School District and was not in the District payroll/personnel system, which generates the evaluation report used to send out evaluation notices. Accordingly, this Dual Enrollment instructor was initially inadvertently omitted from the part-time faculty evaluation notices. On October 11, 2022, Human Resources was notified that the Dual Enrollment instructor had not been evaluated in the same manner as District instructors. Human Resources immediately sent the evaluation notice to the appropriate Division Chairs. Accordingly, while the District inadvertently did not provide notice of the requirement to evaluate one instructor, it remedied the error as soon as possible.

[The assertion that the District failed to provide proper evaluation forms] is false. The documents that may be used in the evaluation process for teaching faculty are incorporated by reference and attached to the CBA in the appendix. Dual Enrollment instructors are required to be evaluated in the same manner as District faculty. Accordingly, the proper evaluation forms were available to faculty Division Chairs both in the CBA and as directly provided on September 7, 2022.

[The assertion that the District failed to complete the evaluation in the timeline required in the CBA] is accurate. Under the parties' CBA, the evaluation process is to be concluded by the 16th week of the semester. For the Fall of 2023, the peer evaluation was completed on December 6, 2022. Due to the peer evaluation being completed on December 6, 2022, the intervening District holiday, and classes not starting until January 17, 2023, the Administrative Evaluation was completed on February 13, 2023.

[The assertion that the Administration failed to identify the evaluation as face-to-face] is false. The Dual Enrollment courses are identified as Dual Enrollment, and not as correspondence classes. The schedule of classes further specifically states that the classes are held at PVHS. (Id.) On the Dual Enrollment instructor's peer observation report, there were several notations that stated: "Not able to observe, since course is at high school." Accordingly, the evaluator knew that the part-time faculty member should be evaluated in-person, as evidenced by their comments on the Peer Observation Report.

[The assertion that the Administration did not provide the student survey results to faculty] is false. According to the parties' CBA, the staff of the appropriate District Officer must have completed tabulations and summaries of the student evaluation forms and is required to have distributed the summaries and tabulations to members of the faculty Evaluation Committee by the end of the tenth (10th) week of instruction. Once the inadvertent error was discovered on October 11, 2022, the Associate Dean of Instruction and Student services immediately scheduled the student evaluations. On October 18, 2022, the student survey results were completed and placed in the appropriate Division Chair's mailbox. Accordingly, the student evaluations were completed by the 10th week of instruction.

[The assertion that Mr. Raman reprimanded faculty over how the evaluation was conducted] is false. There was no public reprimand. The Vice President of Instruction

and Student Services simply restated the importance of peer evaluators completing classroom observations for face-to-face classes.

Finding to Issue No. 4

Based on the totality of witness statements and documentary evidence, the allegation that the Administration failed to follow the faculty evaluation process for a part-time faculty member teaching the current Dual Enrollment pilot courses at PVHS (Ms. Felix), and later criticized the PVC faculty member (Ms. Faux-Campbell) for how she conducted the evaluation, is partially sustained. Specifically, the evidence established that the Administration initially (albeit inadvertently) did not notify the Division of the requirement to evaluate Ms. Felix during the Fall 2022 semester, but the issue was immediately corrected once brought to the Administration's attention. The evidence further established that, given delays in the submission of the peer evaluation, the Administration did not complete Ms. Felix's evaluation according to the timeline specified in the CBA.

Though basic information regarding the evaluation forms, course name, location, modality, etc. was provided by the Administration or was readily available to Ms. Faux-Campbell in the course manual, the Fall 2022 semester was the first semester in which Dual Enrollment pilot courses were taught, and Ms. Faux-Campbell knew very little about the program. Additionally, the Division, and the College in general, offers a high volume of correspondence courses as compared to face-to-face courses. Because the information about evaluating the new course/instructor in person was not flagged or explicitly brought to Ms. Faux-Campbell's attention, it is somewhat understandable that she did not think to veer from her typical practice of evaluating part time faculty based on the evaluation procedures outlined in the CBA, which—given the newness of the Dual Enrollment program—does not specify an explicit process, standard, or procedure for Dual Enrollment instructors to be evaluated at the high school.

Nevertheless, the evidence does not support a finding that Mr. Raman publicly reprimanded Ms. Faux-Campbell during the March 2023 Guided Pathways meeting several months later. Though intended to bring light to a necessary procedure involved in expanding the Dual

Enrollment program, rather than to maliciously embarrass or target Ms. Faux-Campbell, Mr. Raman did point out the error publicly, without highlighting the Administration's own procedural irregularities or acknowledging the aforementioned factors that led to the confusion.

Issue No. 5

Administration failed to provide adequate time for the Faculty Association and the Academic Senate to review proposed changes to PVC Board Policies and Administrative Procedures. *Twenty four hours before the College Council meeting on May 2, to review the May 9 Board of Trustees agenda, the Administration released proposed unilateral changes to Board Policies and Administrative Procedures that will have a significant impact on personnel operations at PVC. These changes will affect the hiring processes for faculty and Administrators at PVC, the procedure for Administrative retreat rights into faculty, and other aspects of personnel management—all which enable the current Administration's unilateral management style and creating safeguards should Administration get itself into trouble. These directions are necessary for all parties to follow California Education Code regulations, PVC BPs, and make sure that there are no violations of the Collective Bargaining Agreement.*

In fact, nearly ten years ago, AP 7250-1 became central to the controversial and ill-advised tenure and retreat of the interim Vice President of Instruction and Student Services, who was facing termination, was still untenured when transferred to Administration, and did not meet the requirements of AP 7250-1 and Ed Codes 87454 and 87458. In this case, the Administration ignored the AP and Ed Codes, convinced the Board to retroactively approve tenure of the interim Vice President to a date prior to her transfer to Administration, and convinced the Board in the same meeting to approve the retreat into faculty as tenured. The Association and the Academic Senate advised the Board at that meeting to not endorse the entire action. Today, the Association pleads with the Board to listen to reason and not endorse these unilateral changes. The proposed changes to BP 7250 and the deletion of AP 7250-1 gives the Administration opportunity to create positions out of thin air for troublesome Administrators and keep them on the payroll when they should be released from PVC.

District's Written Response to Issue No. 5

The overall written finding provided by the District in response to Issue No. 5 states the following:

False. Although these BPs and APs were placed on the May 9, 2023, BOT agenda due the fact that there were no questions or concerns expressed during College Council about them, they were tabled by administration at the Board meeting because administration heard that faculty wanted more time to review and comment on them. The item regarding a faculty tenure issue some 10 years ago is factually incorrect.

The most relevant facts on which the District's finding is based are included below:

The Administration regularly processes issues through the collegial governance process in a timely manner. This complaint deals with an unusual circumstance in which the person responsible for putting the agenda together was out sick and, consequently, was unable to get the BPs and APs mentioned above to the College Council until the day before the meeting. These BPs and APs were placed on the May 2, 2023, Full Admin/College Council agenda, because most of them deal almost exclusively with administrative personnel over which faculty have no purview. Although these BPs and APs were placed on the May 9, 2023, BOT agenda due the fact that there were no questions or concerns expressed during College Council about them, they were tabled at the Board meeting because administration heard that faculty wanted more time to review and comment on them. On the next regularly scheduled College Council meeting on May 16, 2023, these BPs and APs were reviewed again in College Council and are scheduled to appear on the June 13, 2020, Board agenda per our usual collegial governance process.

The changes to AP 7250 primarily consist of updating the procedures to conform with changes in the law, making grammatical changes, and spelling out acronyms. The question about why AP 7250-1 is being retired was further asked and answered at the College Council meeting and subsequently via email. The recommended retirement of AP 7250-1 is due to the fact that the process by which an academic

administrator may “retreat” to a probationary faculty position is governed primarily by Education Code Section 87458, and is redundant with BP 7250, which includes the legal parameters for retreat rights for administrators. With respect to the process by which the District consults with the Academic Senate to accomplish such a “retreat,” AP 7210-0 provides that the Senate participates in how applicants are screened. AP 7211 sets forth the criteria and procedures by which faculty can establish their minimum qualifications and placement in a faculty service area.

The item regarding a faculty tenure issue some 10 years ago is factually incorrect. First, the Administration at the time sought out legal opinions from three separate law firms who all advised the district that the individual in question had already achieved tenure by default according to the relevant Education Code sections, and that the BOT was required to formally acknowledge (i.e., grant) the tenure rather than deny the individual their legal right to tenure.

In addition, this matter was subsequently grieved by PVCCA regarding the fact that a pre-tenure contractually required performance review had not been done. However, the legal remedy for a missing evaluation was to do the evaluation, not to deny the individual their legal right to tenure, which could put the District into legal jeopardy. Ultimately, faculty agreed to this resolution and the grievance was resolved. Finally, the assertion that this individual “was facing termination” is factually inaccurate.

Finding to Issue No. 5

Although the evidence confirms that the faculty were given only 24 hours to review proposed changes to BP/AP 7250 and 7250-1 before they were presented during a College Council meeting on May 2, 2023, the allegation or implication that the Administration attempted to obtain Board approval for unilateral changes to the BPs/APs without input from faculty is unfounded. As confirmed by Board Meeting minutes, not only was the discussion item tabled at the May 9, 2023, Board Meeting, and placed on the June 13, 2023 agenda, with a final read and approval scheduled to appear on the upcoming August 8, 2023, Board agenda, but—as

documented in the District's initial response—the changes primarily consist of grammatical updates and eliminations of redundancies that appear in other policies.

The faculty's assertion that the changes will give "the Administration opportunity to create positions out of thin air for troublesome Administrators and keep them on the payroll when they should be released from PVC," as long as there is a budget for it, is unfounded. Documentation confirms that BP 7250 regarding Educational Administrators and AP 7250-1 regarding Academic Administrators Retreat Rights include nearly identical requirements regarding administrator retreat rights, and the District worked in close consultation with legal counsel regarding the proposed changes.

Issue No. 6

Administration failed to provide and complete full safety and security training and orientation for PVC faculty teaching at Chuckawalla Valley State Prison ("CVSP") and Ironwood State Prison ("ISP"). As required in Article 11 in the CBA, all faculty members, whether fulltime or part-time, must be trained and oriented for their teaching assignments before they begin the assignments. The semester (Spring 2023), the Administration did not complete training and orientation as contractually required, yet faculty are still teaching at the prisons. These faculty members did not have any support or security from the prison administration as the college Administration did not notify or follow through on the important aspects of preparation for those teaching assignments. For example, right now, a PVC faculty member still does not have the proper identification and security clearance to Chuckawalla State Prison (instead the faculty member is issued a visitor's pass for every meeting), nor does this faculty member have a personal panic button for emergencies. The administration did the bare minimum workarounds to keep faculty going to the prisons. As stated in the Contract, teaching at the prison's is a voluntary assignment, but the faculty involved are untenured and feel vulnerable to any reprisal from the Administration if the faculty refuse the assignment in the future.

District's Written Response to Issue No. 6

The overall written finding provided by the District in response to Issue No. 6 states the following:

False. Administration offered training and orientation in Spring 2023 and the necessary information was sent to District personnel to complete their training and orientation. One teacher indicated that she had not had time to submit for a “brown card” but that a guard walks her over.

The most relevant facts on which the District’s finding is based are included below:

Palo Verde College has an open line of communication with ISP and CVSP, and works closely in alignment with our partners as detailed in the MOU approved by the Board of Trustees on June 14, 2022. As indicated in both MOUs, clearance protocols for faculty and staff are generally completed 30-days prior to their presence at the respective institution, or may be accomplished on a case-by-case basis with less lead time. Emails are sent out before faculty start teaching at our local institutions to prepare them before they start teaching at the prisons and the conversations continue throughout the semester. Faculty receive a link to do training at their own pace at the beginning of each semester. However, ISP and CVSP only require that the online training is completed once per year for each employee.

Because the faculty have specifically indicated that the administration failed to offer training and orientation “this semester,” e.g. Spring 2023, the attached list is being provided. This has been maintained by the ISP Community Resources Manager, and indicates on each line the name of the employee directed to the training, the email address to which the resource was sent, and the date/time that the training information was sent. As indicated, between January and May of 2023, a total of thirteen (13) Palo Verde College personnel – including staff and faculty – were sent the necessary information to complete their training and orientation during the Spring 2023 semester. *(Of note is that neither of the faculty members referenced in Issue No. 6 are included on this list.)*

After speaking to the two instructors currently teaching at ISP & CVSP, the instructor from ISP had no issues of any matter to report. The instructor teaching at CVSP mentioned she received the packet for the brown card but indicated that she hasn't had time to submit, but she had no issues to report (she actually mentioned she gets along well with the guard that walks her over and the PSCE that helps her with questions she might have). This instructor is kept safe during the time she is at CVSP by waiting for her to arrive and walking her over. This process has been in place since day one. (Id.) While the instructor is in her classroom, someone, such as a guard sits in her classroom and waits during her entire teaching session. (Id.) That person has a working alarm on them. When the instructor finishes her class, she is walked back out to a location where she is safe, all the way out to the parking lot. CVSP will make sure in the future that faculty have proper paperwork and training prior to the first day of classes. (Id.)

Training and clearance must be completed before entry into the institution is permitted. The training is done through a 52-page packet provided in email and an online training. (Id.) A brown card allows a visitor to move about the institution without an escort. (Id.) An alarm is provided to any visitor for the yard they are visiting. (Id.) The alarm is picked up at the same time as keys. (Id.) Visitors must have an alarm. (Id.) A whistle is provided to brown cardholders in the event the alarm button cannot be pushed. (Id.) There is an officer assigned to the education department and officers are always supervising and checking all areas of each yard. (Id.)

Finding to Issue No. 6

The evidence sustains the allegation that at least one faculty member (Ms. Alvarez) was not provided, and therefore did not complete the full safety and security training (i.e., the brown card clearance packet), *prior to* beginning her teaching assignment at CVSP in January 2023. However, the investigation does not support a finding that Ms. Kehl was solely responsible

for the error, as the District's CDCR contact at CVSP (Ms. Maldonado) was not even aware of the brown card security clearance procedure until on or around March 10, 2023 (the eighth week of the semester). Additionally, though Ms. Alvarez did not have the level of safety clearance and training required to move about the institution without an escort—as noted in the District's written response—Ms. Alvarez was constantly accompanied by an escort who did have the necessary brown card clearance, as well as a panic button on them at all times.

Regarding Ms. Lopez-Roedel, who taught at ISP, evidence confirms that she did complete the brown card clearance packet as required before her first day at ISP, using information provided to her directly by CDCR/ISP personnel. Though there was a lapse in planning and communication that led to confusion about whether and when Ms. Lopez-Roedel would be reporting to ISP for her first day of teaching (which impacted the level of security provided to Ms. Lopez-Roedel on her first day of the Spring 2023 semester), documentation confirms that Ms. Kehl did inform the prison staff that Ms. Lopez-Roedel would be teaching on Mondays, from 2:00 p.m. to 4:50 p.m., and she also informed the staff that the semester started on January 17, 2023. Of note is that January 17, 2023, was a Tuesday—given the semester began during the week of the Martin Luther King holiday—and it was therefore not Ms. Lopez-Roedel's first day at the prison, which may have led to some of the confusion and lack of preparation on the part of ISP personnel. Although Ms. Lopez-Roedel had an unfortunate and unsettling experience at ISP, Ms. Lopez-Roedel had completed the brown card security/training packet without involvement from Ms. Kehl and was therefore provided a pager, panic button, and access to facility without an escort. The lack of an available CO to provide security in the prison yard where she was teaching was due to a misunderstanding regarding Ms. Lopez-Roedel's first day of class, rather than a lack of training, despite Ms. Kehl's efforts to appropriately notify the prison staff and coordinate a contact person to assist her.

Issue No. 7

Administration failed to properly lead, direct, and manage the PVC Makerspace Project faculty Team. The administration has had many setbacks and failures with the Makerspace

Project at PVC since the beginning. Despite these obstacles, the PCV faculty members involved have kept on task and performed the work in good faith. Today, the project is in complete disarray for three major reasons: 1) the faculty lost confidence in the Dean of Instruction and Student Services (Mr. Raman), who has evidently misled, misdirected, and mismanaged the project; 2) the faculty project team was informed by the representatives from the Chancellor's Office that the team is not in compliance with any requirement with the supporting grant; and 3) the Dean of Instruction and Student Services (Mr. Raman) failed to notify the faculty team leader in a timely manner that their MOU was exhausted of time and funds for the entire month of April after they had been performing the work in good faith. As a result, the remaining faculty team has resigned from the project.

District's Written Response to Issue No. 7

The overall written finding provided by the District in response to Issue No. 7 states the following:

False. This narrative conflates two different projects that the District has invested in: i3 and Makerspace. As delineated in the MOUs, the expectations and obligations of faculty that accept a Makerspace or i3 extra-duty assignment are clear. There have been several meetings where the Dean of Instruction and Student Services clarified the differences between the two programs. The exhaustion of time under one MOU occurred seemingly by charging the District for time spent on activities not delineated in the MOU.

The most relevant facts on which the District's finding is based are included below:

This narrative conflates two different projects that the Palo Verde College District has invested in.

(1) i3 grant—which is a faculty lead initiative to implement the Design thinking process in their courses to improve student learning outcomes. This was

proposed and lead by faculty from the inception and supported through a Chancellor's office competitive grant.

(2) Makerspace was purchased using SWF regional money to expand the entrepreneurial mindset for our student/community.

On Feb 8, 2021, the Superintendent/President of the Palo Verde Community College District (joined by other Region IX CEOs) signed a pledge promising to support the students and community in their entrepreneurial efforts. Leading up to this declaration, two instructors from the Business Division were sponsored to obtain Entrepreneurial Learning Institute Certification to facilitate this activity and Strong Workforce dollars were also earmarked for a Makerspace project which could impact both students and the community at large.

On Feb 24, 2021, this strategic direction was unveiled for collegial and community input during a CTE advisory forum. After this presentation, the Dean of Instruction and Student Services worked with the lead CIS Instructor, who developed the preliminary specifications for a trailer housing the makerspace equipment. That instructor subsequently resigned citing health concerns. However, he never expressed any other objections to the Makerspace concept.

The project was then taken over by Business/Accounting Instructor who procured the trailer and the associated equipment. The Makerspace trailer arrived on campus over the summer of 2022. Additionally, in the Spring of 2022, the Business/Accounting instructor had also successfully applied for an i3 grant advocating for achieving better student outcomes, promoting equity and utilizing the Makerspace. Several other faculty participated and were compensated to be trained at the beginning of fall 2022 to get familiar with the Makerspace.

On October 4, 2022, driven by the CIS Instructor's articulated concerns, the Dean of Instruction and Student Services met with the Academic Senate President and faculty

Association President to lay out the proposed phases of the implementation of the Makerspace in a detailed manner.

The District has entered into two MOU with the faculty Association regarding the extra-duty assignment opportunities created by the Makerspace initiative, the most recent of which was approved by the Board on April 11, 2023. As delineated in that MOU, the expectations and obligations of faculty that accept a Makerspace extra-duty assignment are clear, as is the extra-duty compensation payable to those faculty. Similarly, the faculty participants for the i3 grant had clearly delineated expectations, obligations, and deliverables expected in relation to their acceptance of extra-duty assignments (and compensation) relating to the i3 grant. There have been several meetings where the Dean of Instruction and Student Services clarified the differences between the two programs, yet the evident confusion and failure to comprehend these distinctions remains present in the faculty Association's missive.

However, during Spring 2023, an English Instructor took over as lead faculty. The Dean of Instruction and Student Services had set up weekly meeting schedule with the current lead faculty to help meet the goals of the i3/Makerspace project. These meetings occurred weekly over the months February, March and April for project guidance and support until she was notified that she had exhausted the time on the MOU. The exhaustion of time available under the MOU occurred seemingly by charging the District for time spent on activities not delineated in the MOU.

Contrary to the narrative advanced by the faculty Association, the lead faculty seemingly charged the District for time that was not spent in line with the intent of the MOU. Additionally, the lead faculty repeatedly refused to meet with the Dean to discuss how to move the project forward or present their findings from their surveys to the Chancellor's office. This is currently being addressed between the Administration, the lead faculty member, and their union representation. However, to date the administration has not received resignation notices from the two remaining faculty members on the i3/Makerspace project.

Finding to Issue No. 7

Based on the totality of witness statements and documentation, the allegation that Mr. Raman singlehandedly mismanaged, misdirected, and misled the i3/Makerspace project is unfounded. The evidence established that the confusion and misapplication of the i3 project and grant objectives were due to a combination of factors that cannot be attributed to a single individual. Documentation confirms that Ms. Missakian was communicative and forthcoming about her lack of knowledge with regard to building i3 curriculum, and she accepted the challenge nonetheless, but there were unclear and inconsistent expectations communicated to Ms. Missakian, as well as delays in information that created confusion (e.g., Mr. Raman approved her weekly meetings with him on timesheets but later informed her the meetings were not part of the activities delineated in the MOU; some of the deliverables required by the State Chancellor's Office were misstated in the MOU, and there was additional work not included in the MOU that was needed to satisfy the requirements of the grant; and Ms. Missakian did not have access to information in a timely manner due to turnover in project leads). As the administrator supervising Ms. Missakian, it is somewhat understandable why the faculty view the aforementioned inconsistencies as mismanagement and misdirection—rather than mistakes that should fall on Ms. Missakian—even if Mr. Raman did support her in other ways.

The assertion that the team was notified by the Chancellor's Office that they were not meeting some of the grant requirements, as well as the assertion that Ms. Missakian was not informed in a timely manner that her MOU had been exhausted, were determined to be factual and supported by evidence. However, similar to the findings discussed above, Mr. Raman was not singlehandedly responsible for these unfortunate circumstances. Regarding the team's failure to meet grant requirements and the need for an extension, this was a combined result of the abovementioned factors related to turnover and lack of clarity regarding deliverables—which appears to be a cyclic causality situation in which turnover resulted in lack of clarity and, in turn, resulted in more turnover. Regarding Ms. Missakian's MOU being exhausted of time, while multiple administrators confirmed that Ms. Missakian had some personal responsibility in keeping track of the hours remaining on her MOU, Mr.

Raman signed off on every timecard before it was submitted to payroll, and he too did not make note of the overages, nor flagged any of Ms. Missakian's activities as falling outside the activities delineated within the MOU. Additionally, the exhaustion of time was, in part, due to a combination of unclear deliverables listed on the MOU (e.g., the inclusion of activities she was later informed should not have been charged; and the exclusion of activities she later learned were required to satisfy the grant), as well as additional time and research required of Ms. Missakian because of the turnover which caused a delay of information. Although Ms. Missakian's meetings with Mr. Raman accounted for only eight of the total hours recorded on her timesheets for the months of January, February, March, the evidence established that she did charge for the full hour reserved for the meetings, even when the meetings concluded early.

Issue No. 8

Administration failed to properly assign faculty to course schedules, using invalid methods and reasons; misuse and mis-practice of priority of assignment in correspondence education. Recently the Administration has been using enrollment and census data and passing rates in correspondence education courses to either limit or deny teaching assignments for certain targeted faculty. In one instance, the Dean of Instruction and Student Services used the enrollment and census data and passing rates of one faculty member's courses as a punitive means to not assign the same courses to that faculty member in future schedules. Instead, the Dean reassigned those courses to himself, claiming right of assignment. This practice continues today with the same faculty member and others. This is a misapplication of priority of assignment as clearly defined in the CBA. This action financially benefits the Administration in placing themselves into teacher assignments, for which they are never evaluated even though they are assigned and paid as part-time faculty. It also imposes an undue and illegitimate evaluation on the faculty. Most importantly, it is retaliation against faculty for following established State and Title 5 regulations and PVC BPs, especially the Correspondence education policies that the Board recently approved. What Administration is really doing is taking away the responsibility of faculty to ensure the rigor and expectations of the courses are maintained, regardless of the modality. When administration is interfering with the Census criteria, or asking faculty to lower their standards for one type of class modality

than another, this violates our BPs, Title 5 regulations, and ACCJC accreditation criteria. The result is worse than PVC losing its accreditation: This is fraud.

District's Written Response to Issue No. 8

The overall written finding provided by the District in response to Issue No. 8 states the following:

False. Enrollment and census data were not used punitively; the Dean was not permanently assigned to courses; there was no misapplication of the right of assignment; there was no undue or illegitimate evaluation; there was no retaliation; and the District has not improperly taken away faculty responsibility to ensure course rigor and expectations.

The most relevant facts on which the District's finding is based are included below:

After numerous student complaints, petitions, and grievances were received by the Dean of Instruction and Student Services, an investigation was conducted that revealed extensive data which showed a pattern among Rising Scholars students showing a disproportionately high awards of "No Shows" and "Drops" (approximately fifty percent) initiated by a faculty member, along with low support. The investigation further indicated that the "No Shows" and "Drops" were almost all minor infractions or delays, usually beyond the control of these students. The reduction of approximately half of the students dropped the classes significantly below the negotiated twenty-nine students.

This is in contradiction to Education Code Section 78071 which states that additional funds for services in support of postsecondary education for justice-involved students must expand the number of justice-involved student participating and be used to provide transitional materials and services to support student in enrollment. (Educ. Code § 78071.) It is further in contradiction to proposed Title 5 regulations that state that the purpose of the Rising Scholars Network is to encourage the

enrollment, retention and success of justice-involved students. (Proposed 5 C.C.R. §§ 56800, 56801.) The intended purpose of these programs is further to reduce recidivism and reduce poverty among Californians who have been involved in the criminal justice system. (Id.) As a result, community college districts are required to have capacity to assist justice-involved students to apply, matriculate, and persist to graduation. (Proposed 5 C.C.R. § 56810.)

However, notwithstanding these purposes, and despite the students making efforts catching up on the work, the instructors chose not to reinstate the students. Accordingly, the decision by the Dean of Instruction and Student Services exercised management's rights, as indicated above.

After extensive data determined that Rising Scholars students were being disproportionately "no showed" or "dropped," a Dean who has authorization to teach in that area temporarily took over the assignments to support Rising Scholars students in persisting. The data was also provided to faculty in an attempt to redress the cause of the Rising Scholars students being disproportionately "no showed" or "dropped." Accordingly, the assertion that Dean permanently reassigned courses to himself is false.

As indicated above, the District has the inherent power to assign faculty employees to any assignment within their qualifications. PVCCA further acknowledges that the assignment of unit members to their duties is a function of management. (CBA, Art. 6.2.; See Art. 4.15, discussing management right of assignment for classes.) Accordingly, the District did not misapply the right of assignment.

[The allegation that it imposes an undue and illegitimate evaluation on the faculty] is false. faculty were neither evaluated generally nor were they evaluated for productivity quotas for student enrollment, retention or success in achieving outcomes. (CBA, Art. 5.1.) Instead, the District used its exclusive managerial right and authority to determine, implement, change, modify in whole or in part, temporarily

or permanently the methods, quality, frequency and standards of service. (CBA, Art. 1.5.) Accordingly, an undue and illegitimate evaluation was not imposed on faculty.

Finding to Issue No. 8

Based on witnesses statements and documentation showing ongoing complaints, petitions, and grievances submitted by inmate students, as well as prison personnel across multiple correctional facilities, the allegation that Mr. Raman used census data to assign courses or withhold overload in a manner that was intentionally punitive, disciplinary, retaliatory, or intended for the purpose of financial gain is unfounded. As similarly documented in the District's initial response to faculty complaints, the evidence established that Mr. Raman's motivation for reassigning Dr. Patel's and Dr. Redwine's overload courses to other instructors (including himself, the only other instructor with equivalency to teach physics) was to problem solve in response to ongoing complaints regarding the disadvantages incarcerated students were facing in courses taught by these instructors (e.g. the instructors' refusal to accept late work or reinstate students when they were dropped or no-showed as a result of circumstances outside their control, despite demonstrating good faith efforts to submit coursework on time). The census data was reviewed and provided to Dr. Patel after-the-fact to show the pattern of drops and no-shows, but the decisions about Dr. Patel's and Dr. Redwine's course loads were made in response to the ongoing complaints from the prisons over the past several semesters.

Although Mr. Raman acted appropriately within his purview in reassigning the courses, and explained the rationale behind his decision to Dr. Patel when they met in February 2023, Dr. Patel and several witnesses understandably viewed the immediate course load changes—without an opportunity for faculty to demonstrate an increase in flexibility toward students as recommended by Mr. Raman—as premature, particularly in light of the fact that Dr. Patel did modify her practice and accepted late work from several students in response to Mr. Raman's feedback during the Spring 2023 semester.

The claim that—by mandating more flexibility with regard to accepting reinstatements and grade petitions for incarcerated students—the Administration is taking away the

responsibility of faculty to maintain the rigor and expectations of the courses, is not sustained. As confirmed by documentation, many of the reinstatement requests and grade petitions were related to assignments received late (sometimes by only a few days or less), even though efforts were made to proactively inform faculty that the work would be delayed for valid and uncontrollable reasons. Although faculty provided clear expectations within their syllabi about not accepting late work under any circumstance, there are other assessment methods—other than an automatic zero regardless of the competency demonstrated in the coursework completed—that can be used to preserve the rigor, ensure students are demonstrating competency, and prevent students from cheating.

Lastly, the evidence does not sustain the allegation that faculty are being asked to interfere with census data to inflate FTES, or violate Title 5 and BP requirements regarding drops and no-shows. The request from Administration is for faculty to extend more flexibility and consideration toward reinstatement requests (which are allowable) from students who demonstrate good faith efforts to complete coursework.

Issue No. 9

Administration failed to address faculty issues about personal safety and security on campus. *There are three important issues of which the Board should be aware: 1) campus safety during an emergency situation; 2) personal safety and security for faculty; and 3) campus preparation for real-time life-and-death events.*

- 1. Several months ago, there was a severe thunderstorm that hit Blythe. On campus, the power was knocked out during the storm, while classes were in session. The custodians came to every instructor in the instruction building and told the faculty that the Administration ordered the campus closed because the power was knocked out and building to campus needed to be vacated immediately. The faculty were hesitant to dismiss their students because the thunderstorm was so severe that lightning was flashing in all directions and near the campus, the wind gusts were violently strong, and many students relied on public transportation, which ended its service earlier that night. Some of the students had to wait outside in the storm for someone to pick them up. The*

Association brought this issue to the Administration in a College Council meeting. The Administration's response: "We'll look into it." So far, there has been no follow up.

- 2. Over the years, faculty have come forward to the Administration to report threats to their personal safety when students were stalking them on and off campus. In most of these cases, the faculty are female and they expressed their concerns to the Administration when they realized that they have the same problem in common: they all had the same student stalking them. Recently, the same student began the same stalking behavior with the same faculty, who reported it again to the Administration. The Administration's response: "We'll look into it" Today, there has been no follow-up. As a result, the faculty, who are female, are more cautious and alert to avoid any contact with the student stalker.*
- 3. This year, the Association took a very strong stand and made a request to the Administration in a College Council meeting in February: The faculty want—and realize the necessity of—live active shooter training on campus, just like the training in which PVUSD faculty participate. The faculty have requested this training in the past and was always met with "We'll look into it." The Association would like the Board to understand that this was a tough decision, for some faculty members are survivors of gun violence or have experienced other violent trauma. As educators, we, the PVC faculty, see it as an obligation to have a safe and secure learning environment for our students, but we must know how to protect our students as we, the faculty, are the first line of defense in that kind of situation before law enforcement arrives on campus. This is an example of how this Administration fails to realize, fails to understand, and fails to resolve with tangible solutions.*

District's Written Response to Issue No. 9

The overall written finding provided by the District in response to Issue No. 9 states the following:

False. Regarding the thunderstorm, the evacuation process started before it became unsafe for students and staff to leave and make it home safe. All buildings were

evacuated around 7:00 p.m. and during the evacuation no one was in danger, left behind or hurt. Regarding the two stalking incidents reported to administration, both were investigated and found to be unsubstantiated. Regarding active shooter training, a contract has already been negotiated for this training.

The faculty accepted the District's written response to Issues 9.1 (thunderstorm evacuation) and 9.3 (active shooter training), so Issue 9.2 (reported stalking incidents) is the focus for additional investigation and review. The most relevant facts on which the District's finding for Issue 9.2 is based are included below:

Faculty have only reported 2 stalking incidents to administration. Both incidents were reported by the same faculty member, and the alleged stalker in both incidents was the same student. A thorough investigation was conducted on both incidents. All involved were female, and all were interviewed.

The faculty Grievance Officer, Robert Robertson, and the Title IX Officer, Hortensia Rivera [now deceased], were involved in the first investigation process. In this incident, the stalking claim was determined to be unsubstantiated, and all parties mutually agreed. A meeting was held with the Grievance Officer and the reporting faculty member to discuss the findings.

When the second stalking incident was reported, an investigation was immediately conducted. Mr. William Smith, Acting Vice President of Instruction and Student Services, served as a Title IX Officer. Several faculty members were interviewed, and once again the findings were determined to be unsubstantiated. Mr. Smith decided that since he was the Title IX Officer, he would be the one to present the findings to the reporting faculty member.

Finding to Issue No. 9

The allegation that the Administration failed to address faculty issues about personal safety and security on campus, specifically with regard to Issue 9.2—reported stalking incidents—is unfounded. Though Dr. Patel, Ms. Martin, and Dr. Redwine started having uncomfortable

interactions with STUDENT #1 as far back as the Fall 2018 and Spring 2019 semesters, they did not report any concerns to Administration until August 2019. At that time, the reported concerns (frequent office visits; initiating conversations and emails unrelated to coursework; pacing back-and-forth and generally hanging around the instructors classrooms; attempting to give gifts; one isolated occasion when STUDENT #1 became visibly escalated and slammed a book on a desk; an occasion when STUDENT #1 stopped her vehicle to say hello to Dr. Patel while Dr. Patel was on a walk nearby her residence; an occasion when STUDENT #1 drew a portrait of Dr. Patel and showed it to Dr. Redwine; and an occasion when Ms. Martin corrected STUDENT #1's behavior in class, and STUDENT #1 responded with an unprofessional email) did not include any specific threats, physical contact, or incidents that would constitute harassment or some other policy violation aside from disruptive behavior. Nevertheless, Mr. Raman and Ms. Gonzalez met with STUDENT #1 to inform her of the multiple complaints from faculty and reviewed the College's Standards of Conduct, which is a typical first step in a progressive discipline process.

Despite the above efforts to remediate the behavior, approximately one month later in September 2019, STUDENT #1 became visibly agitated toward Dr. Redwine, ripped up an assignment, and aggressively threw it in the trash nearby Dr. Redwine. Thereafter, Dr. Redwine—at the advice of Mr. Raman—drafted a behavior contract outlining specific expectations moving forward. Although the alleged conduct did not rise to an actionable violation of policy, Ms. Garcia also gave STUDENT #1 a verbal directive to “stay away from Dr. Redwine” during the Fall 2019 semester. To further support the faculty, Mr. Raman (and later a campus security guard) spent more time monitoring the area of campus where Dr. Redwine, Dr. Patel, and Ms. Martin taught.

No further issues were reported until the Fall 2022 semester, at which time Dr. Redwine reported four additional interactions involving STUDENT #1 between the Fall 2021 and Fall 2022 semesters (e.g., saying “hello”; drawing a portrait of Dr. Redwine; visiting her office hours without cause and then asking which way she leaves the building; and following and flagging Dr. Redwine down in the parking lot to explain her behavior on a previous occasion). Although the reported conduct did not amount to a violation of policy, STUDENT #1 was

directed by Ms. Gonzalez, again, to discontinue all communication and interaction with Dr. Redwine, and Mr. Raman and campus security began monitoring the area more frequently.

Despite the four directives given to STUDENT #1 by various administrators and Dr. Redwine between August 2019 and September 2022, the evidence established that STUDENT #1's conduct continued throughout the Spring 2023 semester, albeit, toward Ms. Alvarez (rather than Dr. Redwine or the others who reported concerns previously), when Ms. Alvarez was no longer STUDENT #1's instructor. Documentation confirms that in addition to initiating frequent communication, sharing personal stories and information, drawing a portrait of Ms. Alvarez—all of which is atypical and unnerving, but not harassing in nature—STUDENT #1 also made a one-time comment to the effect of, "You looked really pretty. I mean, I don't know where you're going." However, Ms. Alvarez did not perceive STUDENT #1's conduct as hostile or threatening; rather, her primary concern (and the reason she wanted the incidents documented) is to ensure STUDENT #1 (who has since graduated) cannot twist the interactions to reflect poorly on Ms. Alvarez and jeopardize her employment.

Issue No. 10

Administration failed to communicate the actual status of PVC to faculty and the public in light of Chuckawalla State Prison's closure. During the February All Staff meeting, the Administration announced the closing of Chuckawalla State Prison set for Spring 2025. The Administration claimed that PVC is in no danger of losing any enrollment with Chuckawalla closing ("It's only 300 students," said the President/Superintendent), there was enough enrollment in other prisons to keep the college afloat, the college is above its cap and growing, and the financial stability is very strong—so there is no need to worry. Then in a public meeting and a public opinion in the Coachella Valley's *The Desert Sun*, the Administration presented a different front: The closing of Chuckawalla will have a devastating impact on PVC. The contrary statements confuse the PVC faculty and lead them to ask, "What is the actual truth about the current status of PVC and it's future?"

District's Written Response to Issue No. 10

The overall written finding provided by the District in response to Issue No. 10 states the following:

False. The quote from the Desert Sun was consistent with the statements made at the All Staff meeting.

The most relevant facts on which the District's finding is based are included below:

At the All Staff meeting in question, the Superintendent/President stated that the district estimates the immediate impact of the closure after the closure is fully implemented to be the loss of approximately 250 FTES, and that the District has already recovered most of that loss by increasing enrollment among our other CDCR institutions. Based on that information, the S/P stated there is no need for anyone to worry about the long-term impact of the closure of CVSP as far as anyone's job is concerned. The quote from the Desert Sun was consistent with the statements made at the All Staff: "Local officials worried about the closure's effects on ... *Palo Verde College, which has an inmate education program that's proven successful and would lose an estimated 250 students due to the closure.*" [italics added] (Coachella Valley leaders oppose closure of Blythe's Chuckawalla prison (desertsun.com) The entire Save Chuck Press Conference can be view on YouTube at Save Chuck Press Conference with the Superintendent/President's complete comments appearing at approximately 18:15 minutes into the video. From this video, it is clear that the Superintendent/President did not state that "The closing of Chuckwalla will have a devastating impact on Palo Verde College." The Superintendent/President has had two additional press interviews subsequent to the Desert Sun press conference, one of which was conducted on April 28, 2023, with CalMatters.org, and published on May 18, 2023, in which he mentioned more explicitly that the reduction was not a primary concern for PVCCD. The other interview has not yet been published. "Palo Verde College expects to lose about 10 percent of its student body — about 520 people — when nearby Chuckawalla Valley State Prison closes in 2025, but President Don

Wallace said the college can easily make up the lost enrollment by gaining correspondence-based students from other colleges around the state.”

Finding to Issue No. 10

In consideration of witness statements and documentation, the allegation that Dr. Wallace failed to communicate the actual status of PVC to faculty in light of the CVSP closure, or provided conflicting information that differed from information shared with the public, is unfounded. As confirmed by documentation—and as discussed in the District’s initial response to the faculty complaints—the quote from the Desert Sun, as well as Dr. Wallace’s speaking segment from the Save Chuck Press Conference, were consistent with the statements made to faculty at the all-staff meeting. Specifically, though the overall tone of the Desert Sun article is grim with regard to the prison closure’s overall impact on the city of Blythe (not specific to PVC), it is presented as a collective opinion by the author of the article and policymakers in general, and the specific information contributed by the PVC Administration is factual data (i.e., the number of students that could be lost in the closure) without any opinion from Administrators about how this data would impact the college. Similarly, aside from the initial data Dr. Wallace provided related to student enrollments and budget during his speaking segment of the Save Chuck Press Conference, Dr. Wallace spent a majority of his interview segment discussing the negative financial impact the prison closure would have on inmate education, recidivism rates, and poor families having to uproot and relocate as a result of the prison closure.

Issue No. 11

Administration failed to demonstrate transparency in Administration’s hiring practices and was non-compliant with BP and EEO regulations. This past year, the Administration engaged in questionable hiring practices of new faculty. In one case, the Administration attempted to involve the Association in the behind-the-scenes hiring of a new faculty member (Ms. Mills) who demanded a specific amount of salary and working conditions. The Administration asked the Association to violate its own contract by asking the Association “to help find at least \$11,000” more for salary to get the faculty prospect interested in the position.

The Association refused to be complicit. Then, after the Administration hired the faculty prospect with an interview process that was non-compliant with PVC BP, the Administration demanded the Association endorse the salary placement (with the additional \$11,000) for that faculty hire. Seeing the clear violation of BP and EEO regulations, the Association and Academic Senate intervened and demanded the Administration hold a formal and legitimate interview process.

District's Written Response to Issue No. 11

The overall written finding provided by the District in response to Issue No. 11 states the following:

False. The District is transparent in hiring practices and complies with Board Policies and EEO Regulations. The nationwide nursing shortage makes it difficult to hire someone who meets the Chancellor's Office minimum qualifications as well as California Board of Registered Nursing requirements, but the District utilized the hiring process in BP/AP 7210, revised the interview questions, and in the end, there was one qualified applicant. The screening/interviewing committee unanimously agreed to recommend the candidate for hire and the candidate was placed on the appropriate Row and Column, based on the candidate's education and verified years of experience.

The most relevant facts on which the District's finding is based are included below:

The faculty position being referred to is for a registered nurse nursing instructor. Recruitment for this position began on April 19, 2021. This position was particularly difficult to fill during the pandemic due to high salaries for nurses outside of academia, and the position requiring both Chancellor's Office minimum qualifications and California Board of Registered Nursing ("CBRN") requirements. The difficulty in filling this position is not specific to the District, as the applicant pool for these positions statewide and are very limited.

As required, a candidate who met minimum qualifications and the application was submitted for review to ensure CBRN requirements. (BP 7210.) After verification of all requirements, Human Resources moved forward with the hiring process in accordance with BP/AP 7210 and EEO guidelines. (BP 7210.) In accordance with AP 7210, the screening/interviewing committee consisted of the Vice President of Instruction and Student Services, Dean of Instruction and Student Services, Associate Dean of Nursing and Allied Health, Director of Registered Nursing Program, Nursing Instructor, LVN Instructor, Instructional Services Technician I, Payroll/ Benefits Manager, and Associate Vice President of Human Resources. (AP 7210-0, Composition of Screening Committee.)

On June 2, 2022, the screening/interviewing committee was provided interview questions for their review and revision. These questions were revised per the committee's recommendations. As there was only one applicant who met all the requirements, the committee was not required to screen and select applicants. The one qualified applicant was then offered an interview. At the conclusion of the interview, the screening/interviewing committee unanimously agreed to recommend the candidate for hire. (Id.) The Superintendent/President accepted the committee's recommendation, and the position was extended. (Id.)

Based on the candidate's education and verified years of experience, the candidate was placed on the appropriate Row and Column. The candidate accepted and PVCCA signed the Full-Time faculty Salary Placement. Accordingly, Human Resources adhered to the District's BP/APs, EEO Regulations, and the PVCCA CBA.

Any alleged solicitation of PVCCA for an additional \$11,000 is false and was not made on behalf of the District, with the knowledge of the District, or authorized by the District.

Finding to Issue No. 11

Based on corroborating statements and documentary evidence, the evidence sustains the allegation that Ms. Mills (the only applicant in a hiring pool for a position that was

desperately needed) was extended a formal, written employment offer on May 31, 2022, with a signed contract on June 1, 2022, before completing the formal hiring and interview process on June 7, 2022. However, the action was not Board approved until June 14, 2022. The allegation that the Administration demanded the Association endorse a salary schedule placement at a higher level than what was approved based on Ms. Mills' education and experience is unfounded. As confirmed by Ms. Mills, witnesses, and documentation, any adjustments to Ms. Mills' original salary schedule placement were due to the union-negotiated raises that took effect on July 1, 2022, as well as proposals for an extra duty MOU and a health care reimbursement that would supplement her base salary.

Issue No. 12

Administration failed to inform and include faculty input in the recent restructure of PVC Administration. *In late February, the Administration informed the faculty and staff that there was a shake up in the Administration's organization—more specifically, the absence of the Interim Vice President of Instruction and Student Services (Mr. Smith). Before this announcement, the faculty was confused about the reasons for the Interim Vice President's absence from campus. The President/Superintendent could not give a consistent answer during this time: the Interim Vice President was either terminated, had resigned, had retired, was put on administrative leave, took a leave of absence, or took time to contemplate retreating back into the faculty. The faculty had difficulty understanding what was really happening, and wondered: "Who is in charge of us now?" While the President/Superintendent has publicly stated that there will be an external search for a permanent Vice President, there has been no consultation with the faculty leadership about the matter. There is a strong belief within the faculty that the President/Superintendent aims to keep the current Administration structure and its current occupants permanent no matter what happens. The faculty have seen, time and time again, that the Administration promotes from within instead of having a competitive external hiring process to find the best candidates to be leaders at this college, especially in the higher echelon of Administration.*

District's Written Response to Issue No. 12

The overall written finding provided by the District in response to Issue No. 12 states the following:

False. The District was informed about the Interim Assistant Superintendent/VP of Instruction and Student Services leave of absence, along with a search for an Acting Dean of Instruction, and that only one person showed an interest in serving, although the District is not required to meet and discuss the decision to reorganize any department.

The most relevant facts on which the District's finding is based are included below:

The Administration informed the District on March 22, 2023, via email to PVC-Everyone and PVC-Board, of the Administrative Organizational Changes due to the Interim Assistant Superintendent/VP of Instruction and Student Services being on leave of absence as of that same date. An Acting Assistant Superintendent/VP of Instruction and Student Services was named, as well as an Acting Dean of Student Services. The email indicated that the Acting Assistant Superintendent/VP of Instruction and Student Services would begin a search for an Acting Dean of Instruction (not including Student Services). A week later on April 4, 2023, the Administration informed the District via email to PVC-Everyone and PVC-Board that only one person had responded with interest in serving as the Acting Dean of Instruction, and that person was selected to fill the Acting position. The following emails show this communication.

However, this complaint is emblematic of a larger concern, particularly as brought forward and articulated by the exclusive representative of the faculty. Under the Educational Employment Relations Act ("EERA"), public school employees are entitled to bargain for rights relating to wages, hours, and working conditions. (Govt. Code § 3540 et seq.) However, the District generally has no duty to meet and discuss the decision to reorganize any department, up to and including the decision to effectuate the reorganization via layoff. (Newman-Crows Landing Unified School

District (1982) PERB Decision No. 223.) This is largely because the direction of work force and determination of what work is to be performed by employees is also a managerial prerogative, at the core of managerial control, and is not subject to bargaining. (Trustees of the California State University (2006) PERB Dec. No. 1853; Davis Joint Unified School District (1984) PERB Dec. No. 393.)

The Administration has been clear in its communication with all parties on this topic. The Superintendent/President consistently told anyone and everyone who asked that the Interim Assistant Superintendent/VP of Instruction and Student Services had not been fired, and that he was expected to be at work every day. And, indeed, he was at work every day. The rumors that were swirling around as mentioned in the complaint were found to be coming from the Interim Assistant Superintendent/VP of Instruction and Student Services, himself, as was relayed to Administration by numerous employees including classified staff, managers, and faculty. It is easy to understand that the faculty were confused with all the conflicting rumors the incumbent was putting out. However, it is difficult to understand the comment that faculty did not know “Who was in charge of us now,” since the incumbent was on the job and engaged with faculty every day until he went on his leave of absence, at which point the entire District was notified immediately about the change in administrative leadership effective on the same day the incumbent went on leave of absence. This was the identical process used when Mr. William Smith was appointed Acting Vice President of Instruction and Student Services the day after the incumbent, Dr. Scott Bauer, left on leave of absence at which time faculty expressed no concern with the process.

Finding to Issue No. 12

Based on the totality of witness statements and documentation, while the evidence established that there was a period of understandable confusion when Mr. Smith’s future with the college was unknown to Mr. Smith and the Administration—and therefore to faculty—the allegation that the Administration intentionally withheld or mis-portrayed

information, is unfounded. As confirmed by the totality of evidence, on or around February 8, 2023, Dr. Wallace informed Mr. Smith that his interim VP contract would not be renewed for the 2023-2024 fiscal year, and he provided Mr. Smith the option of continuing his contract as planned, or taking a non-disciplinary paid leave for the duration of the 2022-2023 contract, while making a decision about whether to retire or retreat to a faculty position at the end of the fiscal year. Mr. Smith's decision was dependent on whether or not the District could accommodate his requests for 10 years of health insurance to be paid by the District as part of a retirement package, and Mr. Castillo and Mr. Copple were included in the discussions about possible retirement incentives for Mr. Smith. Although Mr. Smith packed up his office and did not report to campus for a single day (February 9, 2023), Mr. Smith returned to campus on February 10, 2023, and continued his leadership responsibilities until the District determined they could not accommodate the retirement incentive requests, at which time, Mr. Smith decided to retreat back to a tenured faculty position. At that point, on March 22, 2023, Mr. Smith was placed on a non-disciplinary paid leave to assist Mr. Smith's transition and allow the District to transition to a new leadership structure, and faculty were promptly notified and informed of the organizational changes that were immediately effective.

Regardless of rumors and conflicting stories about whether Mr. Smith had been fired, Dr. Wallace, as confirmed by witnesses, was consistent in refuting any such statements, and because Mr. Smith was still on campus, the actual uncertainty about Mr. Smith's future (retirement; retreating to a faculty position; non-disciplinary leave; etc.) should not have had any significant impact on faculty.

Issue No. 13

Administration failed to respect the professional and ethical boundaries of faculty leadership and support roles. In the past few weeks, some faculty leaders have come forward to both Association and Senate leadership to say that some Administrators are overstepping their authority and interfering with these faculty leaders and their work to have specific outcomes, which are questionable and borderline unethical. What the Administration is actually doing is applying pressure to faculty leaders to chase unrealistic

and hollow opportunities rather than have collegial consultation and practice shared governance. Examples of this behavior are evident in unilateral decisions in the Dual Enrollment expansion, non-credit certificate and preparation programs, curriculum development, and so on. This kind of strong-arm behavior is discouraging to the faculty involved; some have decided to resign from their leadership roles and extra duty assignments.

District's Written Response to Issue No. 13

The overall written finding provided by the District in response to Issue No. 13 states the following:

Regarding Dual Enrollment expansion, as discussed in more detail in the District's response to Issue 3, the District tabled this matter in recognition of the Academic Senate's consultation. Regarding the remaining allegations, there is insufficient information provided for the District to adequately respond.

The most relevant facts on which the District's finding is based are included below:

PCCFA has provided insufficient information about the alleged unilateral decisions in non-credit certificate and preparation programs for the District to respond. However, the District and PVCCA previously agreed to an extra duty assignment faculty Non-Credit Liaison as a temporary pilot assignment to ascertain the need of a faculty leadership role for the non-credit courses and programs at the District. This includes providing for a liaison between coordinating non-credit program reviews with discipline faculty; coordinating SLO requirements, assessment, and reporting, including assisting in program reviews; assisting faculty in building new non-credit courses and programs within their academic divisions; coordinating and assisting with appropriate academic division chairs in non-credit faculty peer evaluations; and assisting academic division chairs in developing non-credit course schedules for each academic year. (Id.)

Additionally, Complaint also failed to acknowledge that the non-credit High School Equivalency Certificate Program was fully approved by the Academic Senate after a second read on February 14, 2023.

Accordingly, as evident from the agreed-upon MOU with PVCCA, the District has generally not been making unilateral decisions in non-credit certificate and preparation programs, but rather working with PVCCA in regard to non-credit certificate and preparation programs. Similarly, the District has not been making unilateral decisions without input from the Academic Senate, but instead has worked with the Academic Senate in non-credit certificate and preparation programs. With regard to the other vague and unsupported assertions, the District needs more information to sufficiently respond to this allegation.

Finding to Issue No. 13

Given the perception-based nature of the claim, and the totality of evidence collected, the allegation that the Administration failed to respect the professional and ethical boundaries of faculty leadership and support roles, or made unilateral decisions without collegial consultation in the areas of Dual Enrollment, non-credit certificate and preparation programs, and curriculum, is unfounded. With regard to Dual Enrollment, as discussed in the *Finding to Issue No. 3*, though the investigation did establish that a course was placed on the Fall 2023 schedule before the Senate was notified of the Dual Enrollment expansion or given an opportunity to provide a recommendation, this was a matter of logistics related to course advertisement, rather than an effort to prevent collegial collaboration or unilaterally override the shared governance process. Given the course was removed immediately after the Senate collectively and formally voted to pause the Dual Enrollment expansion, before any students had an opportunity to enroll, the decision to add the course to the schedule prematurely for logistical reasons was not a significant measure of collegiality or collaboration.

With regard to curriculum—including the development of non-credit courses and programs—while the Administration may have been involved in discussions about

curriculum, and/or collectively participated in or assumed an advisory role in curriculum development, no examples were provided of occasions when the Administration did not rely on formal recommendations made by the Academic Senate as a whole (not by individual faculty members). As discussed in the District's initial response to Issue No. 13, regardless of who provided input in the development of curriculum in the non-credit certificate program (Ms. Randall versus Ms. Gamaz), the Academic Senate collectively approved it.

While the investigation did reveal some miscommunications with regard to the i3/Makerspace project, as discussed in the *Finding to Issue No. 7*, which created confusion and limited Ms. Missakian's ability to complete all aspects of the i3 grant without exceeding the time allotted in her MOU, the miscommunications were not intentional or malicious, nor do they represent a lack of collegiality or a failure to respect professional and ethical boundaries.

CONCLUSION

Nicole Miller & Associates, Inc.'s findings were overall closely-aligned with the District's initial written response, with some detail omissions and discrepancies that were either not relevant to the alleged policy violations and overall findings, or were not known to the Administration at the time the written response was drafted. The exception was the faculty's claim that a written employment offer was extended to a nursing instructor (the only applicant) in May 2022—and the employment contract was signed—before completing the formal hiring and interview process (Issue No. 11), which was sustained. In totality, many of the specific facts and timelines shared by faculty were determined to be factual as supported by evidence, and the faculty who were interviewed overwhelmingly corroborated feelings of distrust, discontent, and an overall low morale, which they attribute to an alleged pattern of unilateral and retaliatory decision making without collegial input from faculty. However, the evidence did not support the assertions regarding policy violations and unilateral decision making, or the perception-based claims related to malintent and retaliation. Instead, many of the complaints were based on misperceptions regarding intent (Issues 3, 4, 12 and 13); a lack of context surrounding justifiable circumstances outside the

Administration's control or actions taken within their purview (Issues 2, 5, 8, 9, 10 and 13); and miscommunications or errors where fault or blame could not be attributed to a single party or did not rise to a level of unprofessionalism, mismanagement, or a violation of policy (Issues 1, 6, and 7).

Sincerely,

Alyssa Jarvis
Senior Investigator
Nicole Miller & Associates, Inc.