



**Maricopa County Community College District  
Governing Board Minutes  
June 1, 2015**

A Special Session of the Maricopa County Community College District Governing Board was scheduled to be held beginning at 6:00 p.m. at the District Support Services Center, 2411 West 14th Street, Tempe, Arizona, pursuant to ARS §38-431.02, notice having been duly given.

**GOVERNING BOARD**

Tracy Livingston, President (Absent)  
Johanna Haver, Secretary  
Doyle Burke, Member  
Alfredo Gutierrez, Member (Absent)  
John Heep, Member  
Jean McGrath, Member (Absent)  
Dana Saar, Member

**ADMINISTRATION**

Rufus Glasper  
Lee Combs

**SPECIAL SESSION**

The Special Session began at 6:02 p.m. Facilitator Mary O'Grady presented information to the Board about Ethics and Public Service.

Ms. O'Grady, an attorney from Osborn Maledon, first thanked the Board members for their service. She said that ethical consideration as a Board member should include knowing what you can and cannot do plus consideration of what you *should* do (a more constructive approach). She said the MCCCCD has a good set of policies to help the Board govern. These policies establish the District's values. Those, along with Board members' own personal values, are the tools Board members have to make Board decisions. She said the number one rule for staying on track is to remember not to throw everything away to accomplish a short-term goal (everything including your and the institution's reputations). With the right leadership and process, lively debate is possible and beneficial to the outcome. She said the three key principles critical to ethical decision making are: authenticity, awareness, and courage. The principals that govern ethics rules for public officials are: serve the public and transparency/accountability.

Ms. O'Grady provided a brief review of selected Arizona Ethics Laws: open meeting law, conflicts of interest, and public records law.

A copy of the full presentation is included in the Appendix.

**ADJOURNMENT**

The Special Session was adjourned at 8:08 p.m.

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Johanna Haver  
Governing Board Secretary

# **Appendix**

## **Ethics and Public Service Presentation**

# ETHICS AND PUBLIC SERVICE

Maricopa Community College District Governing Board

Presented by: Mary O'Grady  
June 1, 2015



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## Introduction

“It is not the same to talk of bulls as to be in the bull ring.”

*Spanish Proverb*



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## Ethics

- A system of moral principles
  - The rules of conduct that apply to a particular group
  - The branch of philosophy dealing with values relating to distinguishing good and evil and between right and wrong actions and between virtuous and non-virtuous characteristics of people.
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## District Policies

- Policies that Govern the Board
  - Principles for governance, conducting meetings, board job description, relationships with staff and general counsel, code of conduct
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## Ethics and Public Service

You can resolve the conflicts and contradictions of leadership only if you establish for yourself an ethical set of standards on which to base all your actions . . . . All of your individual complexities are held together by a fundamental set of values and beliefs. Developing yourself as a leader begins with . . . . your value system.

- Kouzes and Posner, *The Leadership Challenge*

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## Why ethics matter

- Values form the core of strong ethical action - honesty, integrity, stewardship, responsibility, inclusiveness, and learning (Policy 4.1)
- Strong ethical action enhances credibility, strength, and reputation of the Governing Board and District
- Public expects consistent, meaningful ethical action from Governing Board
- Ethical action will forge bonds and encourage trust, innovation, and teamwork; avoid wasting time

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## Your Role

- Power and responsibility to perform work required of the Governing Board
- Responsibilities to the community college district, students, public and private sector employers, universities, and primary and secondary schools, the people of Maricopa County (Policy 4.2)
- Ethical use of your power as an elected official
- Follow the processes and policies designed to ensure public confidence in ethical use of power

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## Perspective

- Powerful people
- How power is used has significant impact on many
- Need well developed skills – consistent ethical action
- Core values for public service: integrity, honesty, stewardship, accountability



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## Board Members and the Governing Board

- Individual power and responsibility
- Collective power and responsibility

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## Facing the Ethical Realities

- Public money, public information, public rights and responsibilities, public scrutiny
- The answer may not be “black and white” but may often require sound judgment and high level reasoning
- The law does not provide a clear answer



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## Safety Nets – Governing Board Tools

- Healthy debate and genuine disagreement
- Comprehensive assessment/dissenting viewpoints/diversity of backgrounds/blending of political or policy views
- Open meeting, public records, fair conduct of meetings



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## Safety Nets – Governing Board Tools

- Advice and assistance of legal counsel and the Office of Public Stewardship
- Maintaining clear boundaries between your authority and responsibilities and those of staff and stakeholders
- Policies, guiding principles, values
- Good judgment and life experience



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## When things go wrong

- Toxic relationships among Board members – distrust; disrespect
- Toxic relationships between Board and staff or stakeholders
- Time spent resolving complaints
- People go to jail
- People get removed from office
- Work of the district is not done

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## Decision Making Principles

- We are all learning – learning an important part of public service
- Public decision-making and debate part of the process – fair, respectful, informed debate.
- *The Hero Within*: Heroes take journeys, confront dragons, and discover the treasure of their true selves. Although they may feel very alone during the quest, at its end their reward is a sense of community: with themselves and with other people. Every time we confront death-in-life we confront a dragon, and every time we choose life over nonlife and move deeper into the ongoing discovering of who we are, we vanquish the dragon; we bring new life to ourselves and our culture. We change the world.

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## Decision Making Principles

- How do we “vanquish the dragon” in the ethical sense?
  - We move through make decisions from genuine values.
  - We use a decision-making process that is consistent with our values.
  - Important when applying ethics rules. Rules can guide us, but we need to use our values to be aware of problems and make decisions.

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## Decision Making Principles

- No system is fail safe without good judgment and common sense.



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## Decision Making Principles

Three key principles critical to ethical decision making:

- Authenticity
- Awareness
- Courage



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## Authenticity

“It is not the same to talk of bulls as to be in the bull ring.”

*Spanish Proverb*



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## Authenticity

- Say what you mean, mean what you say, and follow through with commitments; “walk your talk”
- Be sincere
- Know who you are and be that person
- No hypocrisy
- Allows real, honest decision-making



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## Authenticity

### Challenges to being authentic

- Not recognizing that the “rules” apply to each and every one of us
- Placing blame on a scapegoat rather than deal with the problem at hand



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## Authenticity

When authenticity is practiced the situation looks different because it is different. Meetings are usually lively and interesting, the group extracts and exploits the ideas of all members, real problems are solved quickly, politics are minimized, and you get to the meat of what needs to be done because you put critical topics on the table for discussion and resolution.

- *The Five Dysfunctions of a Team*, P. Lencioni (2002).

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## Awareness

“I think self-awareness is probably the most important thing towards being a champion.”



- Billie Jean King

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## Awareness

- Use available information; consider your “gut” or intuition
- “Own” your decision
- Deal with the facts honestly.



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## Personal Courage

“Courage is resistance to fear, mastery of fear  
– not absence of fear.”

- Mark Twain



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## Personal Courage

- Ingredient that ensures ethical action
- Necessary to transcend our fears, to see, know, and act ethically
- Necessary to hear, understand, and respect other viewpoints.



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## Principles governing ethics rules for public officials

1. Serve the public
  - resources you are provided as a Board member
  - decisions you make are to serve the public
  - public service, not personal gain

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## Principles governing ethics rules for public officials

### 2. Transparency/Accountability

- Public gets to know what you are doing
- Public gets to watch you make decisions
- Public gets to see your records

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## Selected Arizona Ethics Laws

- Open meeting law
- Conflicts of interests
- Public records law



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## Open Meeting Law

- Purpose
- Official Policy
- Notices
- Agendas
- Executive Sessions
- Minutes
- Calls to the Public
- Pitfalls
- Investigations
- Sanctions
- Be Alert

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## Open Meeting Law

### Purposes

- Transparency and accountability
- Protect the public
- Assure public officials get to do their jobs



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## Open Meeting Law

### Official Policy

- “All meetings of any public body shall be public meetings and all persons so desiring shall be permitted to attend and listen to the deliberations and proceedings”

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## Open Meeting Law

- What is a meeting?
- “The gathering, in person or through technological devices, of a quorum of members of a public body at which they discuss, propose or take legal action, including any deliberations by a quorum with respect to such action.”

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## Open Meeting Law

- All legal action must take place at a public meeting
- “‘Legal action’ means a collective decision, commitment or promise made by a public body . . . .”
- A meeting includes all discussions and deliberations by a quorum with respect to legal action

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## Open Meeting Law

### Notices

- Minimum of 24 hour notice
  - Three exceptions
    - actual emergency
    - recess/resumption of properly noticed meeting
    - ratification
- Correct posting



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## Open Meeting Law

### Agendas

- Must contain information “reasonably necessary to inform the public of the matter to be discussed or decided”
- Executive Session agendas
- Must be available 24 hours before the meeting

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## Open Meeting Law

### Executive Sessions

- Public is excluded
- Seven limited situations
- Vote to go in but may not vote while in executive session
- Confidentiality

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## Open Meeting Law

### Minutes

- Must have minutes of all meetings, executive sessions, advisory committees, subcommittees
- Written or recorded
- Statutes prescribe requirements
- Available within three working days (minutes or recording)

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## Open Meeting Law

### Calls to the Public

- Optional agenda item – but see Policy 4.5
- Ask staff to review
- Ask that topic be added to future agenda
- Respond to criticism (caution/avoid)
- Public body may impose reasonable time, place and manner restrictions on speaker, but cannot restrict content
- Discretion to address specific agenda items

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## Open Meeting Law

### Pitfalls

- Discussing and deciding matters outside of a public meeting – in social settings, private meetings, through email or other electronic communications
- Debating or voting on matters not on the agenda
- Deciding matters in executive sessions
- Discussing matters not on the agenda in executive session
- Using e-mail or an intermediary to circumvent the Open Meeting Law
- Serial communications among a quorum of members

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## Open Meeting Law

### Investigations

- Investigative authority has broad power



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## Open Meeting Law

### Sanctions

- Civil penalties - \$500 per violation; attorneys fees and costs; removal from office; other equitable relief
- Sanctions against those who knowingly aid, agree to aid, or attempt to aid in violating the Open Meeting Law
- Action taken may be null and void – may be ratified

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## Open Meeting Law

### Be Alert

- Be prepared by reviewing your agenda
- Know the Open Meeting Law
- Stick to the agenda, don't wander into unauthorized topics
- Refrain from activities that call your activities into question – primarily communicating through computers, discussions about Board business at social events, many executive sessions and very little public discussion before a public vote
- Avoid texting or emailing during meetings

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## Conflict of Interest

- Arizona's conflict of interest laws apply to all public officials – elected, appointed, full time or part time, paid and unpaid
- Conflict of interest laws prevent public officers from participating in a decision or contract in which the public officer or a close relative has a direct or indirect financial or ownership interest
- Purpose is to “remove or limit the possibility of personal influence which bear upon an officer's decision.” *Yetman v. Naumann*, 16 Ariz. App. 314, 317, 492 P.2d 1252, 1255 (App. 1972).

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## Conflict of Interest

There are several conflicts to be aware of:

- Decision-making
- Contracting
- Supplying Materials or Service
- Post – Public Employment
- Nepotism



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## Conflict of Interest

### Elements to Evaluate

- Will the decision affect an interest of the officer or a relative
- Is the interest a pecuniary or proprietary interest
- Is the interest one that does not fall under the definition of “remote” interest



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## Conflict of Interest

- Relatives subject to conflict of interest statutes: spouse, child, child's child, parent, grandparent, brother or sister of the whole or half blood and their spouses and the parent, brother, sister or child of a spouse.
- Relatives subject to anti-nepotism statute broader (third degree of consanguinity or affinity)

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## Conflict of Interest

- Penalties for Violating the Conflict of Interest Laws
- Intentional or knowing violation (A.R.S. 38-503 to -505) – class 6 felony
- Reckless or negligent violation (A.R.S. 38-503 to -505) – class 1 misdemeanor
- If there is a criminal finding of guilt, the public officer forfeits the public office. A.R.S. 38-510(B).
- Civil penalties and reasonable attorneys' fees

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## Conflict of Interest

Tips to avoid problems:

- Review your agendas in time to evaluate conflicts, investigate the facts, and get advice if you need it
- Disclose and recuse
- Leave your seat or leave the room during agenda items where you have a conflict



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## Conflict of Interest

Tips to avoid problems:

- Avoid circumstances in which people may question whether you are exercising independent judgment in the best interests of the public
- Don't take chances – undisclosed conflicts harm your reputation and put the public body on which you serve in an awkward position
- Recuse yourself to avoid any “appearance of impropriety”
- Periodically check and update all conflict of interest forms you may have on file

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## Public Records Law

- Arizona Public Records Law applies
- Public has right to inspect public documents
- Public agency must make good faith effort to search for requested records
- Access to records may be denied based on confidentiality
- If agency fails to disclose, any person wrongfully denied may bring an action to obtain records
- Public is entitled to inspect documents promptly
- Public records are those related to your official duties

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## Public Records Law

- What do you do if there are legitimate reasons for not disclosing certain information in a document?
- Can you withhold the entire record?



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## Public Records Law

### Tips:

1. Always take the time to evaluate the content, tone, and language of your written materials
2. Evaluate which information needs to be in writing and which information is better made orally face to face
3. Remember that your written notes, memos, and calendars kept in your role as a public official are public records
4. The agency has a schedule for maintaining public records – you must follow that schedule before you destroy public records
5. Personal email accounts used for business and text messages are public records

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## SUMMARY

### Best Practices for Ethical Public Service

1. Respect colleagues, employees, and members of the public and value your role as a public servant, steward and trustee
2. Be a problem solver through understanding the facts, the Board's goals, the Board's role, and the views of those who have something at stake
3. Promote the common good by valuing the chain of command and the authority and support of others in the MCCCDC community
4. Promote respect and civility
5. Contribute to healthy public debate and thoughtful decisions that promote MCCCDC's institutional values
6. Know the policies and statutes – and ask questions.

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## QUESTIONS - DISCUSSION



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# ETHICS AND PUBLIC SERVICE

**Maricopa Community College District Governing Board**

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Presented by: **Mary O'Grady**  
Credit for powerpoint: **Terri Skladany**  
June 1, 2015



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