

APPROVED MINUTES OF INFORMATION SESSION OF THE BOARD OF TRUSTEES OF THE COMMUNITY
COLLEGE DISTRICT OF THE COUNTY OF MACOMB

An open information session of the Board of Trustees of the Community College District of the County of Macomb was held Wednesday, November 14, 2018 at 6:00 p.m., in Room 109 of the University Center, Professional Development Center, Center Campus, 44575 Garfield Road, Clinton Township, Michigan.

1.0 CALL TO ORDER

The meeting was called to order by Chairperson Haase at 6:00 p.m.

2.0 ROLL CALL

Present: Jennifer Haase, Chairperson
Frank Cusumano, Vice Chairperson
Katherine Lorenzo, Secretary
Roseanne DiMaria, Treasurer
Kristi Dean, Trustee
Vincent Viviano, Trustee (arrived at 6:20 p.m.)

Absent: Joseph DeSantis, Trustee

Also present: James Sawyer, President
Elizabeth Argiri, Vice President, Business (left at 6:30 p.m.)
Sharon Kowal, Executive Administrative Assistant to the President
Deborah Mende, Director, President's Office
Kathleen Poindexter, Director of Finance and Investments
Jeffrey Steele, General Counsel, Office of General Counsel
William Tammone, Provost/Vice President, Learning Unit
Jill Thomas-Little, Vice President, Student Services
Casandra Ulbrich, Vice President, College Advancement & Community Relations
Denise Williams, Vice President, Human Resources
Joan Flynn, Trustee-elect

3.0 APPROVAL OF AGENDA

MOTION by DiMaria, supported by Dean, to approve the agenda as presented.

Motion carried.

4.0 AUDIENCE PARTICIPATION

None.

5.0 REVIEW OF AGENDA ITEMS AND MATERIAL

Trustee Cusumano asked if the Board meetings will continue to be held on the third Wednesday of the month rather than the third Tuesday as stated in the bylaws. The change originally was made in deference to Trustee Viviano's conflict with another board he sits on. Would anyone object to changing the meetings to another day of the week?

Trustee Haase stated that the discussion is tabled until Trustee Viviano arrives.

Trustee Haase welcomed and congratulated Trustee-elect Joan Flynn and Trustee DiMaria.

Dr. Sawyer welcomed Trustee-elect Flynn to the board and congratulated Trustee DiMaria on her re-election.

Dr. Sawyer said we will request to go into closed session to discuss labor negotiations with AAFMCC, STA and the Command Officers as well as some lease issues with Wayne State University.

Dr. Sawyer's comments before Issues and Updates:

- He recognized Audrey Takacs, Director of Marketing, because she was named by *Crain's Detroit* as one of the notable women of marketing.
- Information Item 10.2 is regarding the New Holland tractor. When we went to place the order, we discovered the cab was not included in the bid. The additional expense for the cab was \$4,000. The approved vendor still had the lowest bid by \$3,000 so we proceeded with the purchase.
- Enrollment for winter is down 6.5 percent, a little more than we anticipated, but open registration just started on Monday, November 12. There are a number of efforts in place to recruit students. As we prepare for 2018/2019 budget revisions, we will be considering this.

Trustee Cusumano asked for specifics about the outreach efforts. Dr. Sawyer said Dr. Tammone sent an email to faculty asking them to encourage their students to enroll and we have been reaching out through social media. Dr. Ulbrich added that a direct mail piece is being sent to the homes of current students who have not yet registered for winter. Ms. Thomas-Little stated that Admissions is working on the funnel for the new students to ensure that they are tracking through and there are signs up all around campus encouraging students to re-enroll. We have not started phone calls yet because this is only the first week of open enrollment. We will continue to monitor that closely and work with faculty and staff to encourage students to return to Macomb next semester.

Trustee Cusumano stated that there is always a slight drop in enrollment between fall and winter semester, is that this situation. Dr. Sawyer said that is correct, we normally have a fall off from fall to winter, but this comparison is from winter to winter. Trustee Cusumano asked if this comparison is a higher or lower trend. Dr. Sawyer said it is a higher trend; we had been seeing 3 or 4 percent. Trustee Cusumano asked about the fiscal impact. Dr. Sawyer said we are considering that as we go through the budget revision process. The revised budget will be presented to the board in December. Dr. Sawyer said we are very early in the process, so we do not want to over react, but we are being diligent about getting students enrolled.

- In October, Trustees Cusumano, Dean and Dr. Sawyer presented at the Association of Community College Trustees (ACCT) Leadership Conference in New York. It was a good meeting with positive feedback. We gave a joint presentation with Grand Rapids Community College primarily on partnerships, workforce and CTE education. We received a good response and were asked many questions. Thanks to Trustees Cusumano and Dean. He added that it is important to keep the college on the national stage because as we talk about grants and philanthropic efforts that visibility is positive for us. Trustee Cusumano added that it was standing room only. He continued that it was very successful and presented the college in a very favorable light.

Trustee Cusumano said he attended a session at the conference about board self-assessment. He wanted to know if this board should explore doing a self-assessment. He is always favorable towards these organizations because it gives us an opportunity to interact with other trustees around the country and learn from their experiences as they learn from ours.

- Dr. Sawyer reached out to the MCCA who reached out to other presidents around the state to ask if they do some form of evaluation of their board. To date, eight colleges have responded that they do. We are in the process of collecting either their procedures or the instruments they use. To date, we have received three. We will gather the information and share it with the board.
- The EEOC dismissed F. Radcliffe's complaint. Her complaint was tangentially related to the Jacobson lawsuit. At this point, Ms. Radcliffe has 90 days to file a federal claim and three years to file a state claim. The EEOC did not conclude that there was any violation and that is good for the college.
- Michigan voters have approved legalizing recreational marijuana. Marijuana is still illegal on a federal level and for us to comply with the Drug Free Schools Act and maintain our federal funding we need to continue to be a marijuana free campus. No possession or use. We will need to revise some of our policies to make it clear that the possession or use of marijuana continues to be prohibited on campus. We also see the need to inform students that even though recreational use of marijuana has been legalized it is still prohibited on campus. Mr. Steele is leading this effort and will be researching what other institutions have done. Dr. Tammone will draw on his contacts from Colorado for any recommendations.
- December is Trustee DeSantis' last board meeting and we will give him recognition at that time. Trustee DeSantis has served this college for 30 years over two different time periods. He has given a lot to this college and we really appreciate his commitment and leadership.
- Holiday Celebration – Invitation to Board members to meet after the December meeting for a holiday celebration. The details will be emailed to you in early December.

6.0 ISSUE AND UPDATES

1. 2017-18 Audit Results

Dr. Sawyer stated that Rehmann has completed their audit and issued unqualified opinions for both the College and the Foundation. However, there was an audit finding in our single audit, which Ms. Argiri shared with us on September 27, related to our suspension and disbarment certificates. It was not a major issue and we have already put corrective actions in place to guarantee that it does not happen again. It was a paperwork issue, not any kind of violation or anything with ramifications.

Jennie Lambert, Principal, from Rehmann gave a brief overview of the annual audit.

Dr. Sawyer thanked Ms. Lambert for her overview. He also recognized Ms. Argiri, Ms. Poindexter and their staff for their great work. He said there is a tremendous amount of work that goes into the audit and preparing for it, but it is their hard work every day that puts us in such a good position.

2. MPSERS/ORS Student Issue Update

Dr. Sawyer refreshed the board about the issue with the College's pension contributions to MPSERS and our definition of part-time students.

Dr. Sawyer said we were notified late afternoon on September 25, that a bill was going before a House committee the next day at noon to legislation that was going to include a 17-year look back period that would include penalty and interest. He thanked Jeanne Nicol, Libby Argiri, and Nicole McKee for preparing him that night to testify the next day.

Dr. Sawyer said because the way the bill was presented to them, it was clear that the representatives thought this was a cleanup bill. Based on the testimonies of OCC, Washtenaw and himself, the committee did not vote that day. The director of the ORS spoke during the session and it was encouraging to hear that they were willing to negotiate and reach a settlement with the community colleges.

Dr. Sawyer said this issue started a few years ago from an audit by the Auditor General with Southwestern Michigan College. They found that Southwestern was not contributing to the pension system for their part-time students. At Southwestern Michigan, their direct liability was \$388,000. When they added in penalties and interest, their liability rose to \$10 million. When we were looking at our liability, the direct liability was \$1.8 million and using similar rates for interest and penalties, ours rose to \$47 million.

He continued that at one point the MCCA took a neutral position because this did not affect all of the colleges in the state. We have been very involved with the negotiations. Dr. Sawyer recognized Ms. Argiri's leadership because without it we would not have ended up where we did. We worked very closely with Washtenaw Community College on the actual language for the bill. There were several exchanges between the ORS and the colleges, mainly with Macomb and Washtenaw, to construct language that we thought was acceptable. We managed to get a four-year look back period instead of 17. We see our liability capped at around \$570,000.

Dr. Sawyer continued that the bill was voted out of the House committee on November 8. It is now going to the full House. We anticipate a vote on November 27. We were very aggressive with our legislators letting them know our issues with this bill so they would not approve it. Now we need to let them know we are happy with the new bill as written. Representative Lucido is a sitting member of the committee, so we reached out to him in advance and he was fantastic. His actions were instrumental in having the committee table it until we returned with another bill.

However, Dr. Sawyer said, please know that the ORS has made it clear that if this law is not changed, they feel a constitutional obligation to go back 17 years.

Trustee Cusumano asked if this has been adjudicated in a court of law. Mr. Steele responded not to his knowledge. People have interpreted the language, as we have for years, we believe with the blessing of the ORS. People have gone on in this way because a) there had been no objection from the ORS and b) there had been some indication from the ORS that the process was appropriate or at least acceptable to them. Nobody ever fought the issue until now.

Trustee Cusumano said this legislation was just to limit the look back period. Ms. Argiri stated that it primarily limits the look back period and caps penalties and interest. The definition for part-time student was corrected, July 2, 2018 when the Governor signed Public Act 328 into law, which clarified that definition for us going forward. However, it then required the study that the colleges had to complete and the ORS needed to review to determine what the exposure was for four years. All of the colleges complied and the ORS put together their study, but it remained unclear in terms of how much further they would go back. The ORS indicated in a memo to all colleges that they would start with four years but have the ability to go back to 2001 when the pension system was last fully funded.

Ms. Argiri continued that there are two separate legislative pieces here – one that clarified that as of July 2, we no longer report students who are part-time students and part-time employees of the college. The question that remained was clarification on what to do for the period we were not reporting those students. Trustee Cusumano asked if these students over the 18-year period are entitled to retirement benefits. Ms. Argiri said they would have to vest. Chances are they are working here for a period but it is very unlikely that they vest in the system. They never get claims to their benefit and all the employer contributions that the college has contributed to the system remain lost as well. Trustee Viviano asked Ms. Argiri for an idea of how much our contributions were. Ms. Argiri said for our budget overall probably about \$9 million.

Trustee Cusumano asked who wrote the responsible legislation. Dr. Sawyer said on the House side it was Van Sickle, from Grand Rapids and on the Senate side, it was Proos from the southwestern part of the state. Trustee Cusumano said does anyone know if there was any attempt to have them clean up the language of the statute in order to clarify that we were doing it right along. Ms. Argiri said they clarified the definition going forward for us but they have not clarified it going back.

Ms. Argiri said we feel this is the best resolution for Macomb and all of the colleges because it caps our exposure and there is no further look back period. If it does not pass into law and the ORS is looking to go back to 2001 then we start talking about a potential lawsuit. Because

the ORS is complicit in this too. They have an obligation, they are responsible, but it can get very messy when you are dealing with 19 different colleges who are not all on the same page for every single issue.

Trustee Cusumano asked if it would be a one-time charge on next year's budget. Ms. Argiri responded there would be a process involved and it will take quite a bit of effort by our staff to pull together the information by pay period. While the initial report shows about \$575,000, by the time we report all the detail to the ORS it may change from that, but not significantly.

3. Athletic Update

Dr. Sawyer's update on Athletics:

The new athletic director, Bryan Rizzo, started on November 5. Ms. Thomas-Little has been working closely with him to get him up to speed.

In men's cross-country, we had an ineligible athlete who participated in the season and the post-season. Unfortunately, the NJCAA guidelines clearly state that if an ineligible player participates in post-season the team is put on probation the following year.

In women's basketball, in 2017-2018 we had two ineligible players who played virtually all season including the post-season. Here again, we are in a situation where because of those two ineligible players we had to forfeit those games and we are on probation for 2018-2019 because of that same NJCAA guideline. We also had to forfeit the January 6th game because we did not submit the recertification paperwork of eligibility in time.

We have to reapply for both of those programs for submission to get back into the NJCAA to get off probation.

For women's volleyball the NJCAA did an audit of the 2018-2019 team and found we had an ineligible player. This stems from an issue of a student who had signed a letter of intent with another school. We did not know that because the process used to identify those players was incomplete. As a result, we had to forfeit the games played. The player was eligible once we submitted the right documentation on the 17th, but the year is pretty much a loss. The plus side is there was no post-season play involved so no probation or additional sanctions.

The men's basketball team had the same issue with the recertification deadline that we missed, so we had to forfeit the January 6th game. We found a variety of poor recordkeeping issues but nothing that resulted in any other sanctions or penalties just the forfeiture of that one game.

We have been working very closely with the NJCAA. They have been very good to work with, they understand our situation and that we are working through our issues. Primarily we want to make sure we are running an ethical program and following all the rules. It is critical for Macomb and it is critical for our students to understand this is the way it has to be.

Mr. Rizzo will continue to go through audits back to 2015-2016. We will disclose to the NJCAA if we find anything else. We have been very forthright with them and we are hoping they will give us the benefit of the doubt in those areas where they have discretion.

Trustee Dean asked when we could reapply. Dr. Sawyer said we have to go through a season on probation and then we can reapply. Trustee Dean asked how long does the reapplying process take. Dr. Sawyer said it should be quick, they are anticipating that we will reapply.

We have one outstanding issue for men and women's track; we discovered that in spring 2018 we fielded an ineligible player. We have not notified NJCAA yet. They know that Mr. Rizzo is aboard now and we are going through the rest of our audits to make sure we have one final submission of any issues.

Not to diminish the severity of this, or the impact on our student athletes, it is very unfortunate, but at this point, the best we can do is clean up our errors and make sure we are running a first class athletic operation.

Trustee Cusumano asked for elaboration on the process of discovering if an athlete had signed a letter of intent. Ms. Thomas-Little said there are a couple of different checks and balances within the NJCAA system and the guidelines on letters of intent. The athlete was released from her letter of intent, but we did not receive the transfer waiver from the other institution. The athletes fill out an eligibility affidavit where they are asked if they have ever signed a letter of intent. She answered no because she thought she was released from the other institution. We missed that first check and balance. Trustee Cusumano asked if that form has been updated. Ms. Thomas-Little said it is an NJCAA form.

Ms. Thomas-Little said the coach had not been trained to use the searchable database on the NJCAA website for athletes who have signed a letter of intent. She has also learned depending on the browser you use when you submit eligibility, a warning window pops up and states that this person needs a transfer waiver. When she submitted this athlete, she was using the browser Chrome and the warning window did not appear. Internet Explorer is the recommended browser to use for this database.

Trustee Cusumano asked if there is formatted training and continuing education for the coaches. Ms. Thomas-Little said the NJCAA requires institutions to go through eligibility seminars each year. Three years ago, they voted to move to an online eligibility seminar system, but they have yet to do that. There is no offering at this point, through NJCAA on seminars that we are supposed to be compliant on, however our region held a mini one with our athletic directors during their meeting in September. They plan to continue doing that within our region.

Trustee-elect Joan Flynn asked if the college was fined. Ms. Thomas-Little said no, there are no fines.

4. Trustee Expense Reports

Trustee Haase stated that she was asked to sign an expense report that included expenditures that she had not seen before. Following the Guidelines for Board Expense Reimbursement, Trustee DiMaria was asked to sign the report too, she also, in her long-standing tenure on the board had not seen a report for these expenditures. You may not be aware that expense reports have to be signed by the board chair and treasurer (later in the discussion, it was clarified that the board chair and other designated trustee (not necessarily the treasurer) have to sign the form.) Before she signed the expense report, she wanted to get the Board's feedback and find out where everyone stands on that issue. It has not been a past practice

to reimburse people for mileage for attending board meetings or college events such as graduations, etc. Board members do receive mileage reimbursement for attending state wide and national conferences. Trustee DiMaria said currently we are not paid to come to meetings, so we would have to open up reimbursements to those events.

Trustee Haase asked Mr. Steele if there is any guidance in the bylaws. Mr. Steele stated that the bylaws refer to the guidelines for expense reimbursement and the guidelines say the request is submitted to the chair. There is no real guidance as to what can be approved or what should be approved, it is up to the board.

Trustee Cusumano said MCL389.112 states that "expenses of board members may be reimbursed when the expenses are authorized by the board of trustees." The Board passed a guideline for board expense reimbursement, according to the website, on June 18, 1985 and it was revised on May 20, 1997, it states under mileage "reimbursement for use of a private automobile for college business will be at a rate approved by the Internal Revenue Service." He said the question under the policy, as it currently reads is, "use of a private automobile being used for college business."

Trustee-elect Joan Flynn stated that she has no say here but everybody gets mileage for going to meetings. She has been on the health board for the county and a county commissioner. Trustee Haase said that is why they wanted to bring this up because it has not been a past practice here. Trustee Cusumano said if a trustee decides they want to submit a mileage reimbursement for attending college meetings/events they should be reimbursed because that is consistent with the policy as currently written.

Trustee Lorenzo asked how do we determine what is a college event. She attends many events where she represents the college by being there, but it is not a college event. Trustee Haase said her interpretation of a college event is it would have to be on one of our campuses.

Trustee Cusumano said he included the meetings because under the current policy, as written, the only requirement is it be the use of a private automobile for college business. The question is if attending these events is college business and he thinks it is.

Trustee Haase said her concern is we are the ones who have to authorize it. That makes her a little uncomfortable because she does not want these expense reports coming to her as a matter of course and then be expected to decide whose is accurate and whose is not. She wants the board to make that decision.

It was determined throughout the course of the discussion that stipends/compensation are not allowed based on the Michigan Community College Act.

Trustee Haase said if she were to submit her expenses, they would far exceed everyone else's. She would never do that because it would be uncomfortable and a little awkward for her. This is the reason she wanted to have an open conversation about this and to see legally what the guidelines are and what the trustees feel about this.

Mr. Steele said the way it works right now, is if an expense is submitted the board chair and one other designated trustee decides whether to grant the request. The rules read it needs to be college business. Because reimbursements have taken place for things that people agree are college business, the question is whether coming to a board meeting and/or

showing up as a representative of the college at an event, is college business. That is not necessarily clear in these guidelines and that is the issue for the board to decide.

Trustee Haase said let us clarify what college business is. Mr. Steele said we could write it either so it would be clear or it would be a matter for the Chair and the designee to decide on a case-by-case basis.

Trustee Cusumano said perhaps we could amend the applicable policy to read, "shall be submitted by the trustee and voted on by the board as an agenda item once per year." Trustee Viviano said he agrees with once per year, because record keeping would be easier. If someone wants to apply, they should not be blocked from applying. Trustee Haase agreed it should be optional if a member chooses to apply or not.

Trustee Haase asked if the guidelines/policy have to be amended to give a timeline. Mr. Steele said it is up to you, because there is no limit to the time at present. There is no delineation of what constitutes college business. If you want to keep it as it is, where it is not clear, then there is no amendment needed. If you want to clarify it so that there are tight restrictions, he would suggest that the policy be amended. It would make it simpler going forward because there would be less debate if there was a criteria set forth here of what constitutes college business.

Trustee Haase asked if trustees are favorable to having the policy slightly amended and leaving it at the discretion of board members whether they wish to submit something for reimburse or not? On the other hand, do we want to leave it wide open and take it on a case-by-case basis? Trustee Lorenzo asked what Trustee Haase would suggest. Trustee Haase responded personally she is never going to submit a report and that is her own business, but she would suggest that we include some specifics.

Further discussion clarified that expense reports can be submitted throughout the year, but must be submitted before the fiscal year end of June 30.

Trustee Cusumano said he is proposing the definition of college business for mileage reimbursement shall be any event at college campuses, including but not limited to graduations, award banquets, and board meetings. Trustee Lorenzo said there is a problem with saying "on campus," because some events are college business but are not on campus, for example SEMCOG meetings, inaugurations and some luncheons.

Mr. Steele said here is another idea, keep the policy as is, look at the reimbursement requests that come in and if people start to think there are some questionable expenditures we can discuss and amend the policy to limit those requests.

Trustee Haase asked if everyone is okay with Mr. Steele's suggestion for now and move forward. The board agreed.

7.0 Closed Session

MOTION by DiMaria supported by Dean to move into Closed Session for discussion about labor negotiations and some lease issues with Wayne State University.

ROLL CALL VOTE:

Ayes: DiMaria, Dean, Cusumano, Lorenzo, Viviano, Haase

Nays:

Absent: DeSantis

RECESS

The meeting recessed at 7:21 p.m.

RECONVENE

The meeting reconvened at 8:20 p.m.

Return to tabled agenda item 5: Trustee Haase said she asked Trustee Viviano if he was still unavailable on Tuesdays. Trustee Cusumano said he is fine having the meetings on Wednesdays.

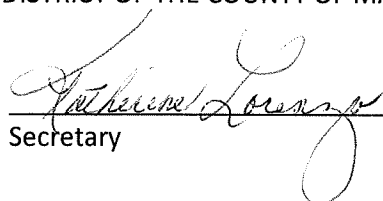
8.0 ADJOURNMENT

MOTION by Dean, supported by DiMaria, to adjourn the meeting.

Motion carried.

The meeting adjourned at 8:25 p.m.

COMMUNITY COLLEGE DISTRICT OF THE COUNTY OF MACOMB BOARD OF TRUSTEES


Secretary