

I. Responsibilities of the Legal Services Department

Legal Representation

The Office of General Counsel is counsel of record for the Maricopa County Community College District. The three lawyers in the Legal Services Department provide legal advice to Governing Board members and employees on Maricopa matters. Moreover, pursuant to Governing Board directive, all Maricopa contracts of greater than nominal value require approval by counsel prior to execution. The lawyers respond to administrative actions, such as those initiated by the Equal Employment Opportunity Commission and Office for Civil Rights; they also represent Maricopa administration in internal administrative actions (such as due process proceedings) and supervise representation by retained counsel in litigation.

Equal Employment Opportunity/Affirmative Action

Pursuant to federal mandate, we maintain Maricopa's annual Affirmative Action Plan (AAP) and respond to government requests for demographic reporting. The EEO/AA responsibility also includes monitoring recruitment activities based upon goals established by the AAP. Additionally, we investigate all formal internal complaints alleging unlawful discrimination, and monitor employment practices to ensure that those practices comply with the Governing Board's non-discrimination policy.

Trip Reduction

State law requires that Maricopa—as a major valley employer—implement and monitor a trip reduction program. The program's aim is to reduce the single occupancy vehicle rate and commuting miles to the various work sites within Maricopa. We do this by facilitating the implementation of programs that award special incentives to employees, and increasing awareness among employees of Maricopa's obligations.

Maricopa Governance

Maricopa's Governing Board adheres to a governance model that contemplates Board emphasis on "products." Specifically, Board policies address goals, executive duties and responsibilities, the governance process, and Board-staff relationships. We devote considerable administrative resources to supporting the Board in its adherence to this model. Moreover, we manage the extensive process for the adoption of administrative regulations, as well as maintain the voluminous documentation this process yields. Additionally, we provide for the preparation of the Board's Monitoring Report of the Chancellor's Executive Duties and Responsibilities.

Ombuds Services

To assist in better serving the interests of public accountability and responsiveness, ombuds services is an established resource for members of the external community to address disputes and concerns regarding the Maricopa Community Colleges. Ombuds services is aimed at the individual—rather than group—concern. We facilitate the resolution of constituent concerns not otherwise addressed at a college level, and deliver information about Maricopa's processes that would serve a constituent's needs.

Risk Management

Risk Management's mission is to reduce the exposure to fortuitous loss to Maricopa, its employees, students and visitors, to the greatest extent possible, and to eliminate the unanticipated financial impact of losses. We do this by being a resource to the District in the areas of general risk management (risk identification, risk control, and risk financing), loss prevention and control, claims, insurance, and contractual transfer. Risk Management procures and manages Maricopa's property and casualty insurance program, and responds to and handles notices of claims received by the District. We also provide assistance in the areas of OSHA compliance, international education risk management, crisis management, workplace violence, and vehicle safety.

II. Statistical Data for 2001

Risk Management

Notices of claim filed against District (by location):

<u>Location</u>	<u># of claims</u>
DSSC	3
GCC	6
GWCC	2
MCC	5
PC	5
SCC	1
SMCC	2

Notices of claim denied (by location):

<u>Location</u>	<u># of claims</u>
DSSC	1*
CGCC	1
GCC	1
GWCC	1
MCC	3
PC	1*
RSCC	1
SCC	1
SMCC	1

*Includes denial of claims filed in 2000

Notices of claim on which settlements were paid (by location):

<u>Location</u>	<u># of claims</u>	<u>Total \$ paid</u>
DSSC	1	\$ 6,185.66
EMCC	1*	478.55
GCC	3*	1,721.55
GWCC	1*	20,000.00
PC	4*	1,366.27
RSCC	1	1,320.36
SMCC	2	6,367.48

*Includes settlement on claim filed in 2000

Notices of claim open as of 12-31-01: 5

A "notice of claim" is a demand for compensation (pursuant to statutory requirement) for injuries to person or property of a third party due to alleged negligence by an employee or agent of Maricopa. Settlement of a claim indicates a finding, after investigation, of sufficient potential of responsibility to justify payment of a sum to the claimant. Denial of a claim indicates a finding, after investigation, of no wrongdoing to justify payment of a sum. Following denial of a claim, the claimant may commence a lawsuit against Maricopa.

Number of certificates of insurance obtained by Risk Management from contractors doing business with Maricopa: 700

Number of certificates of insurance provided by Risk Management upon request of contractors doing business with Maricopa: 514

EEO/AA—internal discrimination charges

Number of formal charges of discrimination received: 16

Number of investigations closed: 10

Number of informal complaints/administrative reviews completed: 25

EEO/AA—administrative discrimination charges

Equal Employment Opportunity Commission

Number of charges received	10
Number of "no cause" findings	8
Number of "cause" findings	0
Number of charges settled	0
Number of cases open as of 12-31-01	2

Office for Civil Rights

Number of charges received	2
Number of "no cause" findings	1
Number of "cause" findings	0
Number of charges settled	1
Number of cases open as of 12-31-01	0

Arizona Civil Rights Division

Number of charges received	1
Number of "no cause" findings	1
Number of "cause" findings	0
Number of charges settled	0
Number of cases open as of 12-31-01	0

Contracts

Number of contracts received for review and approval: 1,656

Number of clinical internship agreements received for
Review and approval: 58

Administrative Regulations
Annual Report for 2001 Activity

Administrative Regulations	Date Approved by Chancellor
2001-2002 Catalog Common Pages	July 12, 2001
2003-2004 Academic Calendar	April 17, 2001
Acceptance of Gifts-Personal or Real Property	January 7, 2002
Art in Public Places & Appendix I	April 17, 2001
Authority to Assess Fines	January 7, 2002
Auxiliary Funds (Fund 2) Budgets	January 7, 2002
Budget	January 7, 2002
Budget Trnsfrs for Current Unrestricted Fund	January 7, 2002
Capital Development	January 7, 2002
Computer Software	July 12, 2001
Concealed Weapons	July 12, 2001
Electronic Communications	April 17, 2001
Emergency Management	April 17, 2001
Equipment Check Out/Off Premise Property Loan	Pending CEC review
External Funds	January 7, 2002
Fiscal Resolutions	January 7, 2002
INSTRUCTION Section Field Studies Copyright Policy Academic Advising Policy Taping of Faculty Lectures Course Substitution for Students with Disabilities	July 12, 2001
Insurance	January 7, 2002
Intellectual property	Still under review
Internal Audit	January 7, 2002
Occupational Health & Safety	April 17, 2001
Prior Year Obligations	January 7, 2002
Procurement of Goods & Services	January 7, 2002
Refund Policy	January 7, 2002
Sale of Products or Services	January 7, 2002
Solicitation Regulation	July 12, 2001
Student Financial Assistance	January 7, 2002
Surplus Property Disposal	January 7, 2002
Thresholds for Competition – Appendix K	July 12, 2001
Travel	March 10 & 27, 2001
Use of College Facilities	January 7, 2002

III. Notable Accomplishments In 2001

- Information technology has presented a host of intellectual property issues for American colleges and universities. In recognition of this, we urged the formation of a District-wide committee to address these issues, with an eye toward protecting the rights of both the District and its employees. Following our yearlong participation in this project, a proposed policy, as well as other recommendations, was presented to Maricopa administrators.
- Members of our department continued to provide administrative support to the Maricopa Women's Leadership Group (WLG) Mentoring Program. We actively participated in the Program's creation in 1999, and have continued to support all its activities ever since. Our staff also developed and maintains a web site for the WLG.
- In January, the men's basketball program at SMCC was the target of discipline by the National Junior College Athletic Association for eligibility rules violations. At the behest of SMCC's president, we conducted an exhaustive investigation into the matter, and assisted administration in personnel decisions that resulted from the episode.
- While state law requires community college districts (as well as other political subdivisions) to adopt policies regarding the retention of records created in the course of district business, Maricopa has no such policy in place. Accordingly, we have commenced a District-wide effort—with representation from various functions at the colleges—to create such a policy. The policy will be completed in early 2002.
- During its 2001 session, the Arizona legislature mandated that universities and community college districts enact policies against hazing activity. We promoted the creation of a committee—under the auspices of Maricopa's deans of student services—to draft an administrative regulation which meets the legislature's requirements. We have devoted considerable time in assisting this effort; the final draft regulation has been submitted to the deans for their approval.

- Various college administrators voiced concern over the scope of insurance coverage afforded employees and students in the rental of vehicles for college-related activities. Consequently, at our urging, Dr. Solley appointed an ad hoc task force to study the issue and develop recommendations. With our active participation in its efforts, the task force is nearing completion of its charge.
- In late August, a GCC instructor displayed a firearm to a student on campus, in clear violation of Maricopa policy; the Chancellor immediately recommended the instructor's dismissal from employment. Despite a strong challenge by the instructor and his counsel, we successfully prosecuted the administrative action and counseled the Governing Board as it ultimately followed the Chancellor's recommendation.
- Maricopa has long had in effect a policy protecting employees who are alleged to have suffered adverse personnel action for disclosing information of public importance, or "whistleblowing." While whistleblower cases have been rare throughout Maricopa's history, 2001 presented two such cases filed against District administration. We devoted considerable resources to the successful resolution of both these matters.
- Maricopa has, for nearly thirty years, employed the familiar "M" logo in nearly all its print and electronic media, but the mark has never been registered with the US Patent and Trademark Office. We advised Maricopa administration that registration would be appropriate. With their approval, we initiated efforts to finally register the Maricopa logo. We expect the registration to be completed in 2002.
- In recent years, courts have held that commercial and non-commercial entities wanting to solicit on college campuses are entitled to some free speech protection. At our urging, the deans of student services oversaw the drafting of an administrative regulation governing the conduct of solicitors on our college campuses. We devoted considerable resources to the drafting of this regulation, which the Chancellor subsequently approved.
- We continued to provide administrative support to the District's council of disability resources coordinators. The council meets monthly in the department's library, and we attend each meeting. Our service to this group includes a clearinghouse function for the ordering of books on tape for

all of the college's coordinators. Providing this service for the entire District—rather than having each college secure its own membership with the provider—saves hundreds of dollars in both membership fees and staff time.

- Pursuant to Governing Board mandate, the District Safety Committee coordinates the functions of the college safety departments at the ten colleges. Throughout the Committee's existence, administrative support for its functions has been reposed in the Legal Services Department. Our staff administers the Committee's budget and handles numerous administrative responsibilities for the benefit of the safety operations throughout Maricopa.
- At the request of Dr. Glasper, we have assumed an active role on Maricopa's Strategic Planning Team to ensure that Governing Board goals and governance processes are taken into account. We are serving as "pointperson" for reviewing progress and process decisions required for the team to stay on track. This involves monitoring the established timeline, reminding team members of tasks and assignments, and aligning the various activities for a Board retreat on strategic planning.
- We coordinated the publication of the first monitoring report of the Chancellor's Executive Duties and Responsibilities. The Executive Duties and Responsibilities policies serve as the constraints on executive authority outlined by the Governing Board for the Chancellor. These include the Financial Planning, Financial Condition, Asset Protection, Treatment of People, Staff Compensation and Benefits, Communication and Counsel to the Board, and Emergency Executive Succession policy titles. Board policy requires that the Executive Duties and Responsibilities be monitored on an annual basis. Annual monitoring serves as a method of accountability in the Board's review of executive performance.
- At our urging, Dr. Randolph approved the addition of ombuds services to the responsibilities of the Legal Services Department through the Manager of Governance. In this new role, Maricopa's ombudsperson will serve as a community contact to answer questions and address concerns raised by members of our external community. While these responsibilities are still new, the variety of issues addressed—and resolved—through ombuds services demonstrates its value to Maricopa. Next year's Annual Report will detail further the variety of matters addressed by our Manager of Ombuds Services.

- The Department devoted substantial efforts to our trip reduction responsibilities, and achieved impressive results. We revived the District-wide Trip Reduction Coordinators Committee, and streamlined our bus subsidy program (eliminating a previous billing error rate of 20%). In addition, we co-sponsored a Roundtable Workshop with Valley Metro (the agency that implements countywide trip reduction training and awareness); representation on the Roundtable included thirty participants representing various school districts throughout Maricopa County. Finally, we intensified our efforts to increase awareness among various Maricopa groups (notably the deans' councils) of Maricopa's obligations under trip reduction mandates.

- Mentor programs for women and minorities are an important means of ensuring compliance with federal affirmative action requirements to foster promotion opportunities within an organization. On the heels of the success of the WLG program, we commenced the development (with the help of employees throughout the District) of a Minority Mentorship Program. With necessary support from District administration, we hope to have this program up and rolling by the end of 2002.

- Aided by specialists in the District's Human Resources division, we began in 2001 to explore various models of alternative dispute resolution for Maricopa employees. We believe such an initiative is an increasingly essential function in an organization of Maricopa's size. Our efforts will continue in earnest throughout 2002.

- An internal audit in late 2000 revealed the improper conversion of college funds by a fiscal officer (who has since resigned his employment and evaded criminal investigation). After we timely submitted the claim to Maricopa's fidelity insurance provider, we devoted substantial resources to obtaining a partial recovery of these funds. After eleven months of corresponding and negotiating the claim with the insurer, we secured a settlement in the total amount of \$30,620.

- Upon direction by Dr. Randolph, we established and chair the District's Workplace Violence Prevention Committee. The Committee conducted workplace violence assessments, distributed and tabulated a survey of Maricopa officials on areas most acutely in need of attention.

Ultimately, the Committee submitted a proposal to the CEC with recommendations to prevent workplace violence. The Committee has also submitted to the CEC a proposed Workplace Violence Prevention policy for Governing Board consideration.

- Over the last few years, many employers have chosen to acquire automated external defibrillators (AED's) to maintain in the workplace for the health of their employees and visitors. Our department established and chaired the District's Automated External Defibrillator Committee. The Committee included college leaders from throughout Maricopa to assist in the implementation of the AED program. The Committee discussed training models and materials, and a RFP was developed to solicit proposals from potential vendors. The Committee's medical consultant completed assessments to determine how many AED's are required for each location. Finally, the Committee recently submitted a proposal to Dr. Glasper to request funding to purchase sufficient devices for each Maricopa location.
- The Legal Services Department has paid particular attention to OSHA compliance throughout the District. As part of this effort, we secured software designed to assist employers in their efforts to meet OSHA mandates, and distributed this software to all colleges to assist them in their OSHA compliance. We also presented OSHA compliance seminars at all the colleges.
- In cooperation with Property Accounting, we recently completed a substantial re-drafting of Maricopa's property loan administrative regulation. This effort entailed participation by administrative and student services deans from various colleges. The result strikes a balance of greater autonomy for the colleges to make property available to employees and students, and greater accountability for persons who take personal possession of college assets. This regulation is pending review by CEC.
- During 2001, the Arizona Civil Rights Division and Office of Civil Rights of the U.S. Department of Education investigated MCC regarding three separate student accommodation complaints. Responding to each charge involved a significant amount of our resources. The charges involved complaints from hearing, sight and mentally disabled students. We successfully represented MCC in each of these matters. Two charges eventually were dismissed, and the District executed a commitment to

resolve a third charge which involved altering the procedure for hiring sign language interpreters.

- While working with OCR to resolve the charge filed by a hearing impaired student, it became evident that regulations governing the hiring of sign language interpreters would help to prevent and defend future OCR charges. We drafted proposed regulations for hiring and monitoring sign language interpreters and worked with the disability services coordinators and the deans of student services councils to obtain approval of the proposed regulations. These proposed regulations are pending approval by CEC.
- We authored proposed employee standards of conduct to notify employees of the type of behaviors subject to disciplinary action up to and including termination from employment. The standards have been delivered to various Human Resources administrators for their review. Such uniform standards have been heretofore absent from any of Maricopa's employee policy manuals.
- Upon request by Dr. Randolph and Dr. Pollack, we conducted an extensive audit of all administrative reassignments ordered at GCC between 1998 and 2000 to determine if GCC disparately had treated minorities in promoting employees through reassignment. Through exhaustive interviews with administrators, employee groups and individuals, the audit revealed no discrimination in reassignments. The results of the audit were presented to, and discussed extensively with, many members of the GCC community.
- We facilitated and successfully concluded negotiations with the Arizona Department of Commerce to recoup much of a \$650,000 reimbursement that Commerce had withheld for 3 ½ years under four contracts for the School to Work program. The funding source for the contracts, the U. S. Department of Labor, had reviewed District contract documentation in June, 1997 and directed that Maricopa provide additional financial and program outcome information, much of which Maricopa didn't have. Working with the Business Services Department, we collected and analyzed boxes of contract documents and provided Commerce with an indemnification agreement. Commerce reviewed the documents, analysis and agreement, and agreed to pay Maricopa about \$500,000 of the outstanding reimbursement.

- Based upon results of several internal audits, Drs. Randolph and Glasper requested our assistance in revising procedures for employing individuals under “Special Services” contracts. We drafted a policy for special services employments, which the Governing Board later adopted, and revised the form used to create such employments. The policy and form will reduce the potential employment law violations highlighted in the earlier audits.

- The Department processed dual enrollment agreements with 17 public school districts and approximately six charter or private high schools, with hundreds of attachments specifying dual enrollment classes, in record time and well in advance of the Fall 2001 semester. We also communicated with the school districts through written notices about implementation of the new fiscal arrangement that went into effect in 2001. We sent the intergovernmental agreements for signature to the school districts in mid-April and the Governing Board approved the dual enrollment agreements that same month.

- We fostered the enactment of a new regulation for use of Maricopa facilities, significantly improving the insurance requirements and defining the limited circumstances in which those facilities may be used at reduced rent or no cost. Our department worked closely with constituent groups – Facilities Managers, Fiscal Officers, Administrative Services Deans, Athletic Directors, and Deans of Student Services – to draft the regulation, which the Chancellor ultimately approved.

- In light of constitutional restrictions over the use of public funds, we completed the drafting of a proposed administrative regulation on official functions. Official functions have been of particular concern for State oversight officials in previous years, and clear direction for Maricopa employees through an administrative regulation will better serve Maricopa’s interests. Dr. Glasper and Mr. West approved the initial draft of this regulation.

- Our staff has reformatted the Legal Services Department’s web site (www.dist.maricopa.edu/legal) in a frames layout for menu access. This layout has greatly enhanced our web site and presents the substantial resources in a more user-friendly fashion. We updated the Business Law & Contracts section of the site to include new downloadable forms (i.e.

Contract for Professional Services, Special Services Employment, and Facilities Use License), and the conflict of interest information and examples were also improved. This makes these essential forms much more accessible to college users. Additionally, we added a current employment issues section to the site. This section will continue as an on-going project, addressing such topics as FMLA, age discrimination, state and federal employment laws, and sexual harassment. Finally, we developed—and placed on our site—a database for certificates of insurance to expedite the processing of contracts and purchase orders. As we serve as the central repository for certificates received from vendors and contractors doing business with Maricopa, the accessibility of this information will better assist college officials in protecting college resources.

- In August, at the request of Dr. Campbell, we presented a work session before the Governing Board on workplace violence. Enlisting the help of experts from both within and outside Maricopa, we presented to the Maricopa community a brief but comprehensive seminar on workplace violence issues that our employees and students face, along with a list of recommendations for both the Board and administration.

IV. Training Responsibilities

In 2001, we continued to offer training for Maricopa employees on a variety of issues. We presented our second annual seminar, “Legal Issues In Brief.” The seminar—offered on four dates at MCC, GCC, SCC, and PC—provided instruction on Maricopa governance, employment discrimination, affirmative action, liability claims, expenditure of public funds, and personal liability.

We offered other internal training programs in 2001:

- Becki Currey, Pete Kushibab and Ruth Unks offered a presentation about service learning and internships, as part of GWCC’s faculty in-service program.
- Pete Kushibab participated in a panel discussion at the Maricopa PSA Annual Summer Conference, and spoke on legal issues in student services at Maricopa’s annual Success Conference.
- Teresa Toney developed and conducted Travel Regulation workshops, with a total of 148 persons in attendance over the two days. The workshops featured presenters from District business services, purchasing, risk management, international education, and governance. Evaluations collected from attendees reported favorable reactions to the presentations and handout materials, and the attendees also requested that more training sessions on the topic be offered in the future.

We also delivered speeches and presentations before state and national organizations:

- Pete Kushibab moderated a panel discussion on service learning and internships in higher education at the annual conference of the National Association of College and University Attorneys (NACUA). He also spoke on intellectual property before the annual conference of the Arizona Academic Administrators, and participated in a presentation on legal issues in student services at the regional conference of the National Association of Student Personnel Administrators.

- Maggie McConnell conducted workshops at the annual and regional conferences of the National Institute for Governmental Purchasing, and at the annual conference of the National Association of Purchasing Management. She also delivered a two-day training session on procurement law for the City of Tucson, and presented at the Diversity Conference of the Arizona State Procurement Office and Arizona Department of Commerce.
- Ruth Unks delivered instruction on Public Risk Management Core Competencies and participated in a schools track roundtable at the Public Risk Management Association (PRIMA) Government Risk Management Seminar. She also spoke on professional development of the public risk manager at the PRIMA Kansas/Missouri conference, PRIMA core competencies and higher education issues at the group's annual conference, and workplace violence at the PRIMA western regional conference. Ruth spoke as well at the Navajo Nation Insurance Conference, and delivered a talk on workplace violence at the Blue Cross/Blue Shield Insurance Conference. Additionally, she served as a panelist in a nationwide satellite broadcast presentation on "Managing Risk and Liability in International Education", offered by community colleges for International Development.

V. Outside Activities

- Gerry Bradshaw is pursuing a Masters Degree in Education Leadership through Northern Arizona University.
- Maggie McConnell serves as Chairman of the Board for the Desert Mountain Affiliate of the American Heart Association (covering Arizona, New Mexico, Colorado, and Wyoming). She also serves on a National Task Force (under the auspices of the American Heart Association) on Effectiveness and Impact. In addition to serving on various committees of the National Association of State Procurement Officials (of which she is a Life Member), she also writes a regular column for *The Public Purchaser* (published by *Congressional Quarterly*).
- Pete Kushibab is an adjunct professor at Arizona State University, and teaches (with ASU General Counsel Paul Ward) a graduate-level course in higher education law out of the College of Education. He also chairs the Professional Practices Advisory Committee for the Arizona State Board of Education; the Committee conducts professional discipline hearings for K-12 teachers in Arizona. In addition, he currently chairs NACUA's Community College Committee.
- Ruth Unks serves as PRIMA's Vice President for Region 1. She has also served on various committees for PRIMA, including its Annual Conference and Government Risk Management Seminar Committees, as well as chairing the Education Committee. She authored two articles for *Public Risk* magazine: "Don't Worry, Be Happy: Rental Car Liability" (April 2001) and "Automatic External Defibrillators: The Shocking Truth" (November/December 2001).