

Date: August 11, 2014

To: Steven Holmes, Bakersfield College Academic Senate President  
From: Sandra Serrano, Kern Community College District Chancellor  
Copy: Kern Community College District Board Member - John Rodgers, Board Chair; Christopher Hine, general Counsel; Thomas Burke, Chief Financial Officer

Subject: Response on behalf of the KCCD Governing Board to  
Steven Holmes Correspondence, July 9, 2014 and July 25, 2014

The following is a response to the concerns raised in your correspondence dated July 9, 2014, and July 25, 2014, to the Kern Community College District Board of Trustees (The Correspondence). The response is organized in four major sections identified by headings that summarize the issues you raised. The response is much longer than I anticipated; however, as I delved through historical documents, I felt that more information was better than less. Transparency is important. In this spirit, I welcome the opportunity to meet with you to answer any questions you may have relative to this lengthy response and the supporting documentation. The appendix is provided for your convenience and easy reference. The documents in the appendix provide the necessary historical context for understanding my response.

**1. What is the nature and scope of the Kern Community College District's legal authority to govern?**

- a. The Correspondence stated that the district is "similar to a governmental unit referred to as a confederation" and further states that "multi-campus districts consist of independent colleges who create a district office which derives its funding and responsibilities from the colleges through their need to meet similar state mandates."

My initial reply to the assertion referenced above is that no reference to any authority, legal or otherwise, is cited. I refer you to the Kern Community College District Ten-year Report 1968-1978. The district was formed by an act of the Kern County Joint Union High School District on July 1, 1961. It was subsequently joined by Porterville College in 1967. In 1973, Cerro Coso Community College was formed pursuant to an act of the Kern Community College District Board of Trustees. Based on this history, your assertion that the district was created by the colleges is inaccurate. Moreover, KCCD Board Policy Section One, Description/ Mission 1A1 Name, affirms that "The name of this legal entity shall be the Kern Community College District of Kern, Inyo, Mono, Tulare, and San Bernardino Counties." (KCCD Board Policy 1A1) And, KCCD Board Policy, 1A4 Member Colleges, states in pertinent part: "The District includes Bakersfield College, Cerro Coso Community College, and Porterville College." (KCCD Board Policy 1A4)

The comparison of district governance to a "confederation" is legally inaccurate, and unsupported by any legal authority. The authority of the KCCD governing board is expressed in Board Policy Section Two, Board of Trustees, which in pertinent part states the following:

"2A1 Authority - The Board of Trustees of the Kern Community College District is the governing body of the District. The Board of Trustees exists by virtue of and derives its powers from the Constitution and the Acts of the Legislature of the State of California and the Rules and Regulations of the Board of Governors of the California Community Colleges. The Board of Trustees as the controlling body of the District is charged with: (1) approving and adopting the policies for the operation of the District, (2) determining that adequate funds are available to enable the staff to execute these policies, and (3) acting as a board of appeals. The Board shall

exercise all the powers, duties, responsibilities and obligations given to it by law. Its primary function is the determination of general policies for and exercise of general supervision of the District. The details and administration thereof shall be carried out by its officers and employees."

"2A2 Management of the District--The Board shall determine the administrative organization necessary to execute District policies. It shall elect a Chancellor and such other officers as may be required and fix their compensation and terms of office. The Board shall hold the Chancellor responsible for the efficient administration and supervision of the entire system and shall evaluate the Chancellor. The administration of the Kern Community College is that of line and staff. Employees should conduct College or District business according to this organizational arrangement."

Unquestionably the definitions provided in board policy do not describe a confederation.

- b. The Correspondence asserts "There is no doubt colleges and district office budgets are intertwined. It's not as easy as the colleges have their budgets to set priorities and the district has their budget to prioritize. Yet, it does appear the district office has sovereignty over district wide costs charge back allocation funds, and additional funds through the district wide reserve when needed."

KCCD Board policy 6A3 states that "[t]he Academic Senate of each College shall be recognized to make recommendations with respect to academic and professional matters to the College President and Management Team of each College, and, if necessary, consult collegially with the Board of Trustees about individual College matters as outlined in Board Policy 6A4." Board Policy 6 A4 defines the term "academic and professional matters." There are 10 plus 1 academic and professional matters as enumerated in Title 5 CCR 53200 and also in KCCD Board Policy 6A4; however, only 2 of 10 relate to the district's decision to add new positions to the district office staff; number 6, "District and college governance structures, as related to faculty roles." and number 10, "processes for institutional planning and budget development."

This conclusion is based upon the published resource by the Academic Senate for California Community Colleges (ASCCC) , *Participating Effectively in District and College Governance - The law, Regulation and Guidelines*. (See Appendix) The two related academic and professional matters are set forth below:

"9. QUESTION: One of the eleven areas of academic and professional matters is district and college governance structures, as related to faculty roles. Must the district consult collegially on the administrative organization chart of the district and/or college?"

ANSWER: "No. How the administration is organized may be a matter for wide participation by the affected parties but is outside the scope of the district's responsibility to consult collegially with the Senate. However, organizational changes which affect academic and professional matters such as curriculum or faculty role in governance would require consultation with the academic senate."

"10. QUESTION: another one of the 11 areas of academic and professional matters is "processes for institutional planning and budget development." Does this regulation relate to the institutional plans and budgets themselves, or only to the process by which plans and budgets are developed for presentation to the board?"

ANSWER: The regulation relates only to the process. The academic senate is to be consulted collegially in shaping the processes used for developing the plans and budgets to be acted upon by the governing board. The board is not required to either "rely primarily" on the Senate's recommendations or reach mutual agreement with the senate on the plans and budgets themselves."

The concern you raise in your letter regarding the District's budget development process and its use of district wide reserves was addressed and resolved through participatory governance by a task force established by the Chancellor in 2006, as described in meeting minutes and reports. At the Kern Community College District Board Meeting held on January 24, 2007, the district's Chief Financial Officer, Mr. Tom Burke, reported to the governing board that in the fall of 2006 the Chancellor had asked the members of the Chancellor's Cabinet (renamed the KCCD Consultation Council) to develop a new budget allocation model for which a sub-committee was formed. The working group looked at a variety of budget allocation models, different approaches, and digested Senate Bill 361 (known as SB 361, the new community college funding formula). The culmination of this work resulted in a KCCD budget allocation model that was presented to the Chancellor's Cabinet (now known as Consultation Council) with a 30 day comment period established for review. Mr. Burke reported that staff would begin the process of making presentations of the proposed budget allocation model at each of the campuses and the District Office. (See Appendix: KCCD Board Meeting Minutes January 24, 2007, page 3)

In spring of 2007, the new Budget Allocation Funding Model (BAM) was approved by the Chancellor to be used for the 2007-2008 fiscal year. The document *Budget Allocation Funding Model, Kern Community College District* represents the cumulative work of the Budget Allocation Model sub-committee, and incorporates feedback received from constituencies, including the three college faculty senates. This document includes the budget allocation model parameters and definitions, allocation steps, evaluation process, guiding principles, criteria to be addressed, and benchmarks. (See Appendix: Budget Allocation Funding Model, Kern Community College District; BAM Task Force Members 2006-2007)

In April 2007, the Chancellor addressed a letter to the Chancellor's Cabinet (now Consultation Council) outlining the understanding reached by the Chancellor, the members of the Budget Allocation Taskforce, and the three college Academic Senate Presidents regarding the proposed KCCD Budget Allocation Model. The model was approved, implemented and was scheduled to be evaluated in one year. (See Appendix: Chancellor's Letter to Chancellor's Cabinet)

The first BAM evaluation included a sample survey sent to a cross section of 100 constituents. Based on a 47% response rate, it was concluded that "staff do not understand BAM and therefore it would be important to educate the staff." In response, an annual Finance 101 workshop was conducted at each college with the first workshop scheduled in October 2008. (During this period, the California budget crisis was just beginning as recorded in Consultation Council meeting minutes in October 2008 and March 2009.) In August 2009, Consultation Council Minutes reflect that BAM Evaluation II would be convened as a sub-committee with representation expanded to include financial expertise and not limited to governance groups. In January 2010, the BAM Sub-committee was formed with a charge to complete its evaluation prior to the end of Spring Semester 2010. In April, 2010, the BAM sub-committee reported a list of issues to evaluate and recommended completing the evaluation in fall 2010, with recommendations for the Chancellor to consider for the following

budget year. In September 2010, Consultation Council was informed the BAM Evaluation II Group would present its report at the November meeting. The BAM Evaluation Report II was presented to the Chancellor and Consultation Council on November 16, 2010. (See Appendix: BAM Evaluation I 2008; BAM Evaluation II Report 2010; Chancellor's Cabinet/Consultation Council Minutes 2008-2010).

Based upon the evaluation of the Budget Allocation Model implementation, the BAM process and timeline has been followed consistently to align with the State of California budget process since 2007-2008. Budget assumptions are discussed in the fall. By December of each year, the KCCD's Vice Chancellors submit to the Chancellor a "Condition Assessment" for their respective unit(s) and each college president submits to the Chancellor their "State of the College" reports. From this process budget development commences to align strategic initiatives and budget assumptions. The Governor's Budget is announced annually in January, and it evolves until the Governor's May Revise. By June the KCCD Tentative Budget is recommended for approval to the governing board to authorize operating expenses effective July 1, the new fiscal year. By June 15, the legislature votes on the State budget, but the Governor has the right to blue pencil line items within the legislature's adopted budget, and therefore the State budget does not become final until the Governor signs the budget. The recommended KCCD Annual Budget for adoption is presented for approval at the September governing board meeting.

This procedural summary and timeline is provided for edification, not to infer that the process or timeline cannot change. Continuous assessment and improvement is a recursive process.

## **2. Did the 2014-2015 Tentative Budget understate the incrementally new FTE for District Operations and misreport FTE at Bakersfield College?**

- a. The Correspondence states: "...CFO Burke reported in the handout 2014-15 Tentative Labor Budget Variance District Operation (GU001), the net change in FTE for the district office would be 3.03... I personally addressed this issue [underreporting] with Mr. Burke after it continued to be misreported..." "Also, Bakersfield College FTE was misreported. Earlier communications from BC to Mr. Burke identified there would be a 2.45 FTE adjustment at BC..."

The Tentative Budget Document is an initial draft of the budget for the next fiscal year. Its primary purpose is to inform the development of a conditional spending plan, while the State of California finalizes its annual budget by June 30. Title 5 requires community college districts to adopt a tentative budget by July 1, the beginning of the fiscal year; otherwise there is no authority for spending.

The Tentative Budget includes a detailed draft of the budget data submitted by the Colleges and District Operations. There are usually some errors and omissions in the information included in the tentative document due to the state budget process. These errors and omissions are ascertained after the data has been submitted for district wide consolidation and reporting. The Governor's May Revise and the legislature's budget adoption in June continue to inform our district wide budget process. These errors and omissions are identified and corrected during the preparation of the proposed adopted budget, which is recommended for adoption by the governing board at its September meeting.

The FTE differences identified by you are errors identified after the Tentative Budget document was completed and published. You inquired about needed changes to these errors and omissions to which Mr. Burke responded that the needed changes would be captured in the adopted budget. In order to minimize confusion, Mr. Burke has always maintained that the data submitted and published at the time of the tentative

budget should be maintained until the recommended budget for adoption in September is completed and published. The budget recommended for adoption in September incorporates all corrections to the tentative budget as well as any changes to the state budget allocation.

To illustrate how the budget process works, as discussed at the governing board meeting 2014-2015 Budget Work Study Session, there will be significant changes to the tentative budget in addition to those identified above. These changes will include increased STRS costs, allocation of growth revenues, a SISC general liability insurance premium cost increase, cost of settlement of the CSEA salary reopener, new Student Equity funding, increased SSSP funding, as well as others. These will be identified accordingly when the recommended Adopted Budget is presented to the governing board in September.

Finally, in Mr. Burke's opinion, the FTE differences noted as misreported are not significant or material when looking at the labor budget in its entirety. The differences represent 3.1 FTE out of a district wide total 981 FTE (1/3 of 1%) in the unrestricted (GU001) budget. You are correct that at Consultation Council a recommendation was made to the Chancellor to restore to the District Operations budget 1.00 FTE for faculty collective bargaining release time. The recommended changes to the district wide bargaining unit FTE and to the Bakersfield College FTE error are changes to be reconciled in the proposed Adopted Budget.

**3. Did District Operations add six positions? Does the District Office report deficit spending to be balanced by district wide reserves that will ultimately require the colleges to generate \$3.5 million of ongoing unrestricted funds?**

- a. The Correspondence stated "... six (6) "position additions" at the District Office in 2014-15 will produce an initial cost of \$626,112. It should be noted, the 2014-15 budget reports deficit spending and the need for \$737,734 from the district wide reserve for balancing..."

The assertion that six positions (6 FTE) have been added to the district office is incorrect. There are four new positions: 1) IT Security Manager, 2) IT Project Manager, 3) IT Portal Administrator, and 4) Human Resources Manager (restored position). Furthermore, an IT Systems Analyst/Programmer II position budgeted in 2013-14 was eliminated. The Vice Chancellor of Educational Services and the M&O Manager (aka Building Facility Manager) are ongoing positions. The BC M&O Manager was a temporary assignment, although the district Building and Facility Manager/M&O Manager maintained responsibilities at the district office during BC's search for the college's M&O Manager position. Consequently, when subtracting the IT Systems Analyst/Programmer II 1.0 FTE and adding the assigned cost of the faculty collective bargaining 1.0 FTE to District Operations, there is a net increase of 4.0 FTE, without adjusting for position start dates of less than one year, which further reduces the FTE in 2014-2015.

Be that as it may, note that BAM Evaluation II Committee reported, **"The Committee concluded that the District's ability to receive funds as requested to meet their annual needs obviated the need for carryover funding."** (emphasis added) (See Appendix, BAM Evaluation Report II, 11/16/2010, page 2)

- b. The Correspondence states, "...the 2014-2015 district office budget reports deficit spending and the need for \$737,734 from the district wide reserve for balancing. Holding the 2014-15 district office's cost charge back allocation percent/district office's expenditures constant, in 2015-16 the district office will again experience a shortfall..." "To avoid using district wide reserves, the colleges, on

behalf of the district office, who derive their funding from the colleges, will need to generate an additional \$3,500,000+ of unrestricted funds.”

It is unclear how the \$3.5 million projected shortfall was derived; however I surmise that you are contending the District is being irresponsible in funding new position which will require the use of district wide reserves. To the contrary, the \$737,734 portion of the District Operations budget that is proposed to be funded from district wide reserves is for *one-time non-labor expenditures* (emphasis added) (Source: 2014-15 Tentative Budget, Executive Summary, p. 2). Stated differently, none of the district wide reserve is being proposed to fund the four new positions or any other ongoing costs that will require the colleges to generate an additional \$3.5 million in unrestricted funds.

The one-time expenditures included within the District Operation proposed budget consist of the following:

<b>One Time Expenditures to be funded by Reserves</b>	
Accrued Vacation	\$ 117,734
Achieving the Dream	\$ 120,000
Consulting for IT Security Initiatives	\$ 85,000
Upgrade Data Base Firewall	\$ 100,000
Replace or upgrade Portal	\$ 165,000
Expansion of data storage	\$ 150,000

Utilizing the reserves instead of ongoing funds reduces the impact on the ongoing, unrestricted general fund allocations. Since these are onetime expenditures they do not continue into the future. Hence, using reserves is an appropriate budget approach in this instance since reserves are onetime funding. By using district wide reserves for one-time expenditures, the colleges’ unrestricted general fund budget allocations are not reduced by higher District Operations charge backs.

Finally, note that the District’s Budget Allocation Model does not allow annual unused GU001 budget funds for District Operations to be carried over into the next fiscal year, except for funding in-progress, but incomplete projects crossing fiscal years. Any unused annual District Operations budget funds are allocated back to the Colleges at the time the annual carryover calculations are finalized (typically after the annual audit is completed in December). Over the last several years the following amounts of District Operations unused GU001 budget funds have been allocated back to the Colleges:

<b>District Charge Backs</b>	<b>2009-10</b>	<b>2010-11</b>	<b>2011-12</b>	<b>2012-13</b>	<b>Total</b>
Budget	19,842,834	19,456,749	20,285,976	19,731,204	
Actual	19,708,503	19,143,334	20,149,864	19,223,275	
<b>Returned Funds to Colleges</b>	<b>134,331</b>	<b>313,415</b>	<b>136,112</b>	<b>507,929</b>	<b>1,091,787</b>

#### 4. Has the District been deficient in evaluating the services to the colleges?

- a. The Correspondence quotes "Follow-up Report Talking Points", stating: "Each of the colleges in the KCCD should evaluate the effectiveness of the services being received by the college via focus group, survey, or other College - determined method." Additionally he cites elements of Standard IV B. as ACCJC support for such evaluation. The Correspondence goes on to assert: "It is unfortunate months have passed since this accreditation deficiency was noted with little to no measures taken for improvement."

In October 2012, ACCJC Accreditation Evaluation Team visits to the three colleges of the District and the district office resulted in recommendations for each college and the district office. The District took each of its four recommendations seriously and **fully addressed each recommendation as reported in each of the three colleges' October 2013 Follow-up Visit Reports and the ACCJC Action Letters Dated February 7, 2014. (emphasis added)**. The ACCJC action letters and reports clearly state that the District recommendations were addressed to their satisfaction. The conclusion was: "The College and Kern CCD have provided evidence that shows the Decision-Making process is being evaluated. The requirements of this recommendation have been implemented and the District now meets Standard IV.B.3.g. It is suggested that the College and the District provide more information on the structure of the evaluation and include documentation of the data obtained from the evaluation."

In the Follow-up Report section titled Findings and Evidence, it was suggested that Kern CCD modify the KCCD Decision-Making Flowchart "in a way to show feedback and evaluation process. "Currently the chart is linear...In this format a feedback-loop is not normally recorded as the intent is to show where decisions are made along a continuous line going up the chain of command until a decision is made." As demonstrated by minutes, notes and revised documents, over a period of at least five years, a comprehensive evaluation process was conducted and constituent feedback was received and discussed to implement functional changes. The KCCD Elements of Decision Making was modified with each functional assessment of district services and operations in December 2007; May 2008; November 2008; October 2009; March 2010; August 2011; September 2011; October 2011; February 2012 and April 2012.

In reviewing the accreditation follow-up reports it was noticed that Bakersfield College had posted the wrong version of the latest decision-making document; September 2011 instead of April 2012. According to the KCCD Elements of Decision-Making Document evaluation statement, it "will be evaluated annually the first two years and every 3 years thereafter, by the Chancellor and Colleges' CEOs in consultation with the District and college constituencies." The functional evaluation has been followed since 2006-2007. The functional evaluations took place annually in 2007, 2008, 2009, 2010, 2011, and 2012. Therefore based on the determined KCCD Elements of Decision-Making evaluation cycle, the next assessment is scheduled in 2015. However, this year, 2014-1015, KCCD will address the suggested flow chart modification to show feedback and evaluation as suggested in the accreditation follow-up report.

At the May 2014 Consultation Council meeting it was recommended that the District conduct program review similar to the colleges. It was reported that Cerro Coso Community College had planned to include Human Resources, a centralized/hybrid service, in its 2013 -2014 college program review process, but was postponed until 2014-2015. Additionally, the Chancellor reported that the Chancellor and CFO evaluated the Los Rios CCD Program Review Model for possible implementation. The Riverside CCD model was recently received by the Chancellor. Both models will be presented to Chancellor's Cabinet for discussion.