



## Peralta Academic Senate: A White Paper for the Purposes of a Discussion of a Possible No Confidence Vote

Executive Summary of District Academic Senate Call for a Non Confidence/Censure Vote: The following is an incomplete, but representative, summary of major areas of concern regarding the Chancellor’s and Board of Trustees’ actions and inactions over the last few years that have resulted in the District Academic Senate’s current state of concern.

<b>Examples from Overarching Areas of Concern</b>	<b>“10+1” Academic and Professional Matters Purview</b>	<b>Board Policy/Administrative Procedure Violations</b>
<p><b>1. Ineffective Budget Management</b></p> <ul style="list-style-type: none"> <li>a. Misuse of equity and general funds</li> <li>b. Negligence about student receivables</li> <li>c. Measure B use not in spirit of taxpayers’ intent</li> <li>d. District budget expansion; college budgets shrink, with no follow-up analysis, especially of district spending</li> <li>e. Budget development process ignored (e.g. Equity)</li> <li>f. Lack of budget calendar and budget process</li> <li>g. 3 straight years of operational budget deficits</li> <li>h. Insufficient reserves to cover coming deficits</li> </ul>	<p>Most directly “10. processes for institutional planning and budget development,” but also directly, and indirectly impacting, “4. educational program development,” “5. Standards or policies regarding student preparation and success, “6. district and college governance structures, as related to faculty roles,” “7. Faculty roles and involvement in accreditation processes, including self-study and annual reports,” “8. Policies for faculty professional development activities,” and “9. Processes for program review,” and “11. Other academic and professional matters as are mutually agreed upon</p>	<p>BP2510 (Participation in Local Decision Making)            BP5300 (Student Equity)            BP6100 (Delegation of Authority, Business, and Fiscal Affairs)            BP6250 (Budget Management)            BP6300 (Fiscal Management and Accounting)            BP6305 (Debt)            BP6330 (Purchasing)            BP6340 (Bids and Contracts)            AP2511(Role of Academic Senates in District and College Governance)            AP5300 (Student Equity)            AP6250 (Budget Management)            AP6300 (General Accounting)            AP6305 (Debt Issuance and Management)            AP6330 (Purchasing)            AP6340 (Bids and Contracts)</p>



	between the governing board and the academic senate.	
<p><b>2. Lack of Consultation</b></p> <ul style="list-style-type: none"> <li>a. Budget freeze enacted without consultation and subsequently bypassed without consultation</li> <li>b. Non-credit at WDCE, not colleges</li> <li>c. VC of IT went forward without response to DAS objections</li> <li>d. PBIM structure re-organized without sufficient consultation</li> <li>e. Continued WDCE at the District despite faculty recommendations (never formally responded to)</li> <li>f. One-on-one discussions functioning to bypass participatory governance processes</li> <li>g. PBIM process without updated goals for 2 years; PBIM not supported by providing consistent leadership</li> </ul>	Lack of consultation throughout multiple systems and processes at the District and into the College level has directly or indirectly impacted all areas of 10+1 regarding “academic and professional matters.”	<p>BP2510 (Participation in Local Decision Making)</p> <p>BP5300 (Student Equity)</p> <p>BP6250 (Budget Management)</p> <p>BP6300 (Fiscal Management and Accounting)</p> <p>BP7120 (Recruitment and Hiring)</p> <p>AP2410 (Policy Development Process)</p> <p>District and College Governance)</p> <p>AP2511(Role of Academic Senates in District and College Governance)</p> <p>AP5300 (Student Equity)</p> <p>AP6250 (Budget Management)</p> <p>AP6300 (General Accounting)</p> <p>AP6305 (Debt Issuance and Management)</p> <p>AP6330 (Purchasing)</p> <p>AP6340 (Bids and Contracts)</p> <p>AP7123 (Hiring Acting and Interim Academic and Non-Academic Administrators)</p>
<b>3. Questionable</b>	Again, questionable	BP2430 (Delegation of



<p><b>Administrative Practices</b></p> <ul style="list-style-type: none"> <li>a. The concentration, without consultation, of District resources to the District Office;</li> <li>b. The failure to ever implement that agreed upon Budget Allocation Model (BAM) which has left the Colleges underfunded;</li> <li>c. The appointment of too many, and for too long, interim administrators at district;</li> <li>d. Expansion of administrative positions at District (Dean of Equity; WDCE Associate Vice Chancellor without consultation—or ignoring consultation altogether);</li> <li>e. Interim Vice Chancellor of IT hiring not following BPs and Aps;</li> <li>f. Excessive turnover within the district;</li> <li>g. Lack of planning regarding SEIU agreement re hourly workers</li> </ul>	<p>administrative practices, characterized by not following established Board Policy and Administrative Procedure, directly and indirectly, impact all areas of 10+1 regarding “academic and professional matters.”</p>	<p>Authority to the Chancellor)  BP2510 (Participation in Local Decision Making)  BP6100 (Delegation of Authority, Business, and Fiscal Affairs)  BP6250 (Budget Management)  BP6300 (Fiscal Management and Accounting)  BP6305 (Debt)  BP6330 (Purchasing)  BP6340 (Bids and Contracts)  AP2511(Role of Academic Senates in District and College Governance)  AP6250 (Budget Management)  AP6300 (General Accounting)  AP6305 (Debt Issuance and Management)  AP6330 (Purchasing)  AP6340 (Bids and Contracts)  AP7123 (Hiring Acting and Interim Academic and Non-Academic Administrators)</p>
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I. Introduction

This White Paper by the Peralta District Academic Senate is intended to provide the issues and the analysis of reasons for the discussion on whether the faculty should tell the Academic



Senate that they want a vote of no confidence or a censure of the Chancellor and the Board of Trustees.

It is important that the community is educated and able to engage in an informed discussion about the facts, consequences and potential behind such a vote, before the District Academic Senate (DAS) proceeds with a vote. This White Paper will inform the Peralta community about the lack of leadership from the Chancellor on several issues over the past three years that has culminated into a position of inflexibility regarding the new State Funding Formula as well as Student Equity and Achievement changes. Because of this, the district will also ultimately struggle to meet mandates regarding Guided Pathways and the directive to achieve the State Chancellor's Office Vision 2022 Goals. Congruent with fiscal irresponsibility, the Chancellor lacks leadership regarding engaging in a planning process design that will prepare the District to meet these changing statewide mandates.

This White Paper will also provide examples of occurrences when the Board of Trustees ignored their fiduciary responsibilities to both question and challenge district fiscal health based on the audit findings they were provided. A primary example of this lack of responsibility, a part of many years of financial dysfunction, is the large amount of student receivables -- and more recently, when the District had to pay back \$4 million to the State Chancellor's Office because the district did not meet the set FTES target.

One argument against even a discussion of a vote of no confidence is that it is out of the blue and not a result of years of trying to collaborate with the Chancellor to no avail. DAS concerns about behaviors and actions of the Chancellor have been raised, and have been continually ignored, for several years. Last spring as a result of the lack of collegial collaboration, DAS requested outside intervention via the Community College League of California to assist the Chancellor and other administrators to consult with DAS. We had the President of the State Academic Senate, the President of the Community College League of California, and the Chancellor of the San Mateo Community College District discuss consultation and collaboration with the Chancellor, the College Presidents, and Vice Chancellors, in August. Subsequent actions have not indicated any substantial changes regarding the continued lack of consultation and collaboration.

An additional view is that because the district has fallen upon hard fiscal times, we should all work together rather than a discussion by faculty of a no confidence or censure vote of the Chancellor and the Board of Trustees.

However, the District Academic Senate has repeatedly worked to collaborate with the Chancellor regarding fiscal, human, technological and facility resources to no avail over the past three years. In addition, the District Academic Senate's request to consult with the Board of Trustees has fallen on deaf ears. Instead of receiving -- with open arms -- consultation and collaboration, the District Academic Senate has received comments that downplay the millions of dollars that have been used to pay back the mistakes and negligence by the Chancellor and



Board of Trustees. After years of attempted and failed collaboration and consultation, the only solution is to engage in a process to have the faculty discuss a possible vote of censure or no confidence in the Chancellor and Board of Trustees.

## II. Problem Statement

While the Academic Senate has disseminated information to faculty over the past three years about District issues as well as attempted collaboration and consultation with Chancellor Jowel Laguerre and the Board of Trustees, it has been sporadic and uneven to the various colleges and their faculty. There is a need to provide a detailed description as well as an overview of the issues to better inform the Peralta community so they can make an informed decision and give feedback to the college academic senates regarding censure or a vote of no confidence.

## III. Analysis

As per [Title 5](#):<sup>1</sup>

“§53200 (b): Academic Senate means an organization whose primary function is to make recommendations with respect to academic and professional matters. Section 53200 (c) “Academic and professional matter” means the following policy development and implementation matters.”

Over the past few years, the District Academic Senate has repeatedly attempted and failed to successfully consult and collaborate with the Chancellor and the Board of Trustees. What follows is an evaluation, including notable examples, of what DAS regards as a now established pattern by the Chancellor and the Board of Trustees of either failing to fully honor faculty’s consultative role per [Title 5](#) and [Peralta Board Policy 2510](#)<sup>2</sup> or ignoring and disregarding faculty’s consultative role entirely. DAS argues this has been to the detriment of both our institution in general and our students. When the board elects to rely primarily upon the advice and judgment of the academic senate, the recommendation of the senate will normally be accepted, and only in exceptional circumstances and for compelling reasons will the recommendations not be accepted. If, for example, a governing board has elected to “rely primarily” upon the recommendation of a local senate for one or more of the “10 + 1” items, the board must ordinarily accept the senate’s recommendations, except when “exceptional circumstances and compelling reasons” may exist.

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[https://govt.westlaw.com/calregs/Document/I6EED7180D48411DEBC02831C6D6C108E?viewType=FullText&originContext=documenttoc&transitionType=CategoryPageItem&contextData=\(sc.Default\)](https://govt.westlaw.com/calregs/Document/I6EED7180D48411DEBC02831C6D6C108E?viewType=FullText&originContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default))

<sup>2</sup> <http://web.peralta.edu/trustees/files/2013/12/BP-2510-Participation-in-Local-Decision-Making1.pdf>



#### IV. Selective Historical Overview of Problems in Leadership, Consultation and Collaboration, and Oversight and Management

There are many examples of the current Chancellor's and the Board of Trustees denial of the District Academic Senate's consultative purview regarding "10+1"<sup>3</sup> academic and professional matters.

One example has been the failure of Monthly 10+1 meetings scheduled with the Chancellor with the hope of increased consultation and collaboration regarding planning issues and administrator job descriptions. During these meetings, the District Academic Senate repeatedly informed the Chancellor he was violating PCCD Board Policies and Administrative Procedures, particularly by hiring and keeping interim administrators for more than the one-year limit. Despite seeming agreements during these conversations to abide by PCCD Board Policies and Administrative Procedures, the Chancellor has continued, and repeatedly, violated cited policies and procedures.

Another example is bypassing the objections of the District Academic Senate, the Chancellor utilized Equity and General Funds to create the Assistant Vice Chancellor of Enrollment Management and the PCCD Outreach Office. The District Academic Senate and other shared governance bodies opposed this position and department – primarily because outreach efforts should be rooted in the colleges, where students enroll as well as funding for the AVC of Enrollment Management and PCCD Outreach Office was not part of the Colleges' equity plans which had been previously submitted to the State as a requirement for funding. This forced the College to change established plans without any consultation and resulted in a substantial loss of funds to support students with disproportionate impacts at the Colleges. While ultimately the Academic Senates were successful in putting the funding back to the colleges, it took over three years.

Another example is the creation of the Workforce Development and Continuing Education (WDCE) Office with the Associate Vice Chancellor position of WDCE at its helm. When challenged, the Chancellor repeatedly stated the WDCE would be self-sufficient within two years. This has not occurred.

Rather, PCCD funds are still supporting and subsidizing the WDCE "department." Despite the objections of the District Academic Senate and other shared governance bodies, a permanent WDCE Associate Vice Chancellor of WDCE was hired in the summer of 2018 (after two years of interim appointments) and continues to be funded using a combination of general funds and Strong Workforce categorical funds despite the ongoing objections of faculty. This is inappropriate because one of the key consultation points emphasized by the District Academic

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[https://govt.westlaw.com/calregs/Document/I6EED7180D48411DEBC02831C6D6C108E?viewType=FullText&originContext=documenttoc&transitionType=CategoryPageItem&contextData=\(sc.Default\)](https://govt.westlaw.com/calregs/Document/I6EED7180D48411DEBC02831C6D6C108E?viewType=FullText&originContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default))



Senate is the development of noncredit courses. The Chancellor touted that he developed the WDCE for contract education -- but WDCE was also in charge of noncredit courses. According to the 10+1, course development of any kind is within the faculty purview at the colleges and not the District Office nor administration.

The Chancellor has repeatedly rejected participatory governance processes and collaboration with the DAS. Another recent example is when the Chancellor agreed to have the District Technology Committee (DTC) faculty co-chair involved in the hiring of a new Vice Chancellor of IT. The District Academic Senate discovered the Chancellor was moving forward with the Vice Chancellor of IT position, only consulting his Cabinet before doing so. The DAS then reminded him about his previous agreements to collaborate and the requirement based on 10+1. At that time, the Chancellor included the DTC faculty co-chair on the selection committee for a permanent Vice Chancellor. The Chancellor then changed the position to an Interim assignment and asked DAS for representatives that could participate in the selection committee. In a common and disingenuous manner, the Chancellor sent out the schedule the night before the scheduled interviews (with previously scheduled interview times) and thus only one of the faculty Academic Senate Presidents was able to participate. DAS subsequently objected to this hiring process and its objection was then ignored without comment. While the Chancellor portends to consult with faculty, this scenario is only one example of the convoluted practices the District Academic Senate has consistently faced creating an impossible and disingenuous process.

The District Academic Senate has also repeatedly attempted to consult with the Board of Trustees during the past three years to carry out its duties. In and out of Board of Trustee meetings, the District Academic Senate President, PFT President and other faculty have consistently reported on the lack of collaboration and consultation with the Chancellor. Further faculty have repeatedly presented concerns related to fiscal issues pursuant to its consultative role regarding "institutional planning and budget preparation" and has been ignored and disregarded without official responses to faculty consultation. Indeed, rather than engaging and consulting faculty, Board of Trustees have even in public comments minimized problems cited by faculty resolution and Peralta's external auditors, such as outstanding student receivables debt, as of negligible concern despite repeated audit findings of "material weaknesses" and "significant deficiencies" for which, as an example, Peralta's credit rating for its OPEB bonds was **lowered**<sup>4</sup> in the summer of 2018.

More broadly, DAS outlines additional areas of concerns regarding the actions and inactions of the Chancellor and Board of Trustees:

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<sup>4</sup> [https://www.moodys.com/research/Moodys-affirms-Peralta-CCD-CAs-Aa3-GO-A2-and-subordinate--PR\\_904689197](https://www.moodys.com/research/Moodys-affirms-Peralta-CCD-CAs-Aa3-GO-A2-and-subordinate--PR_904689197)





- Repeated and ongoing instances of failures to consult and collaborate with District Academic Senate on central 10+1 academic and professional matters including, especially, institutional planning and budget preparation.
- Results that include a gross distortion of the District general fund budget in favor of the District Office and “Central Services” at the expense of the Colleges.
- An ongoing breakdown of shared governance at the District level that has marginalized faculty, staff, and students through reduced membership in shared governance committees and has frequently included instances of ignoring or circumventing shared governance at the District and College level.
- A current fiscal outlook that includes a currently masked a six million dollar deficits that led to four million dollars in hiring freezes that were proposed and ultimately imposed by the District Office without proper consultation and were borne disproportionately by the Colleges.
- Recent efforts by the Board of Trustees to insert themselves in day-to-day operations of the District that include facilities and general operations, IT, and financial services.
- Student receivables (money students owe for registration) increased to over twelve million dollars because the district ignored the issue for years -- despite having dealt with the same problem less than a decade ago (one time is a mistake; two times is negligence). As a result, the District had to write off six million dollars and is trying to collect on the balance that likely will not be collected totally. Every year we add an additional million dollars or more in student receivables.
- At the same time, we have seen the budget of the District Office and Central Services balloon disproportionately, now becoming larger than any of the four college budgets.
- This was possible because Measure B funds were manipulated so the district would not have to increase faculty spending in order to comply with the 50% law for instruction. The District, in some years, took the Measure B funds and then moved the bulk of our non-instructional faculty spending, Counselors and Librarians, into Measure B to “hide” the expense. This meant that eight million dollars on non-instruction was not part of the 50% calculation which would otherwise have required that at least an extra four million dollars every year would have had to be spent on instructional faculty. This added up to over fifteen million dollars in the last four years. That is how the District Office has been able to grow and it has also resulted in a very low reserve and a lack of funds to provide more resources for students and classroom instruction.
- The District’s fiscal situation today is unsustainable when coupled with enrollment declines and a changing funding formula that is likely to result in the loss of millions of dollars from the District’s budget in the coming years, regardless of the passage of Measure E and Measure G.
- This is a crisis that Peralta needs to acknowledge, face head on, and respond collectively in order to be able to continue to meet our educational mission. We can’t afford to ignore or minimize the crisis facing us or allow anyone to get in the way of working toward collective solutions.





## V. Responsibilities of the Board of Trustees and Chancellor

Peralta's Chancellors and Board of Trustees have clear lines of responsibilities and powers per state mandate and Board Policy and District Administrative Procedures in order to support the District and the District's mission.

[State Education Code 70902](#)<sup>5</sup> and [Board Policy 2200](#)<sup>6</sup> establish that the Board of Trustees have a core set of responsibilities that include:

- Represent the public interest
- Assure fiscal health and stability
- Monitor institutional performance and educational quality
- Delegate power and authority to the Chancellor to effectively lead the district
- Respect the authority of the Chancellor by providing policy, direction, and guidance only to the Chancellor who is responsible for the management of the district and its employees

Peralta's Chancellor exercises ultimate executive authority in the District per [BP2430](#)<sup>7</sup> (Delegation of Authority to the Chancellor) and the Chancellor in turn delegates authority staff via [AP2430](#)<sup>8</sup> (Delegation of Authority to the Chancellor's Staff). [BP2430](#) identifies specific responsibilities and duties as derived from the [Chancellor's job description](#)<sup>9</sup> which states regarding examples of essential duties, "To perform this job successfully, an individual must be able to perform each essential duty of the position satisfactorily" and includes:

- Articulate a vision for the future of the Peralta District in a clear and compelling manner and inspire and direct staff to make the vision a reality
- Work in concert with the Peralta Board of Trustees to achieve defined financial goals and maintain financial stability through strong oversight, collaborative budget development and strict adherence to sound budget policy, procedures and timelines
- Develop alternative strategies and sources of funding to support the outstanding programs and services of the district
- Increase reliance on data-driven information in making informed decisions at all levels of governance
- Identify innovative opportunities for advancing the use of technology in the areas of teaching, learning, assessment, student services and administrative systems

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<sup>5</sup>[https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=70902.&lawCode=EDC](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=70902.&lawCode=EDC)

<sup>6</sup> [http://web.peralta.edu/trustees/files/2011/04/BP\\_2200-BoardDutiesResponsibilities.pdf](http://web.peralta.edu/trustees/files/2011/04/BP_2200-BoardDutiesResponsibilities.pdf)

<sup>7</sup> <http://web.peralta.edu/trustees/files/2011/04/BP-2430-Delegation-of-Authority-to-the-Chancellor.pdf>

<sup>8</sup> <http://web.peralta.edu/trustees/files/2013/12/AP-2430-Delegation-of-Authority-to-the-Chancellors-Staff3.pdf>

<sup>9</sup> <http://web.peralta.edu/hr/files/2012/10/Chancellor-JD1.pdf>



- Respond to changing demographics within the community and ensure that district programs and services are comparable to, and reflective of, the current needs of the service area
- Be responsible for ensuring that board policies, applicable bargaining agreements and state and federal education statutes are consistently adhered to in the district by holding accountable those responsible for their implementation
- Recruit and retain talented and diverse faculty, staff and administrators who are reflective of the district's service area and provide them with the opportunity to achieve high standards of performance and to succeed
- Advocate for maximum participation in activities and partnerships that will continue to strengthen the district's image, reputation and community relations by developing or maintaining relationships with local educational, civic and business interests
- Foster mutual respect and democratic values, which have historically created a unique esprit de corps among the students, faculty and staff of the Peralta District
- Strengthen management systems for sound decision-making, effective policy implementation and equitable resource allocation among the district's programs and services

Additionally, Peralta's Chancellor is expected to exhibit "additional leadership qualities" that include:

- Honor and employ the district's Planning and Budgeting Integration Model (PBIM), which is based on a shared/participatory system of governance that relies on transparency, open communication and listening in dealing with district employees, students, the community and the Board of Trustees
- Invite all college constituencies to join in creating a communal vision and shared governance process for carrying out the district strategic plan and the unique Educational Master Plans of each of the four colleges
- In addition to having experience with planning, development and the construction of educational facilities, demonstrate an understanding of and commitment to bond financing programs and their role in successfully fulfilling the district's multi-year facilities master plan
- Enhance district success through strong financial and in-kind support for entrepreneurial programs, pursuit of grants and partnerships, and aggressive fundraising for the Peralta District Foundation
- Strengthen the Peralta name and the prestige and service of our four colleges through vigorous community involvement with local organizations, groups and activities



VI. DAS questions whether the Peralta's Board of Trustees has failed to satisfactorily meet its responsibilities.

Specifically, DAS questions:

- An ongoing inability by the Board of Trustees to meet the requirements of [BP6250](#)<sup>10</sup>/[AP6250](#)<sup>11</sup> to set a budget calendar, establish clear budget directives, and follow a fully consultative and collaborative budget preparation process with faculty (in violation of faculty's state mandated role in budget preparation per [10+1](#)<sup>12</sup>).
- This lack of effective budget planning has been compounded by the Trustees inability to effectively oversee Peralta's budget such that a disproportionate amount of resources has been accrued to the District Office and Central Services (increasing in size by 36% over the last five years), monies such as the Measure B parcel tax have not been spent on instruction (\$4,288 total between 2015 and 2017), and overall spending now far exceeds our general revenue based on actual enrollment<sup>13</sup>—this resulted in a hiring freeze, executed without prior consultation in spring 2018—such that there is a c. \$6 million deficit looming in 2021 (c. \$14 million if the parcel tax is not renewed).<sup>14</sup>
- The Board of Trustees have approved some of these budgets despite the budgets not having followed the established procedures for budget planning or having approval through the shared governance process. In 2018 this included accepting a budget with hiring freezes, c. \$3 million for the Colleges, that were never approved by college shared governance and only approved by the District's Planning and Budgeting Council after the fact and during the summer.<sup>15</sup>
- At the same time that the Board of Trustees did not effectively oversee Peralta's operational budget. It also failed to address a series of audit reports from Peralta's external auditor warning of a growing issue with outstanding student receivables (money owed by students that had not been paid and yet was still being included as revenue). This led to a c. \$6 million retroactive write-off in 2017-2018 and continuing write-offs that will cost the District over \$1 million a year into the future.<sup>16</sup>

<sup>10</sup> <http://web.peralta.edu/trustees/files/2013/12/AP-6250-Budget-Management.pdf>

<sup>11</sup> <http://web.peralta.edu/trustees/files/2018/09/AP-6250-Budget-Management.pdf>

<sup>12</sup> [https://govt.westlaw.com/calregs/Document/I6EED7180D48411DEBC02831C6D6C108E?viewType=FullText&originContext=documenttoc&transitionType=CategoryPageItem&contextData=\(sc.Default\)](https://govt.westlaw.com/calregs/Document/I6EED7180D48411DEBC02831C6D6C108E?viewType=FullText&originContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default))

<sup>13</sup> All numbers derived from the District's Annual Adopted Budgets: <http://web.peralta.edu/business/annual-adopted-budget/>

<sup>14</sup> See the September Fiscal Year 2019-20 Budget Workshop (contra the presentation, the District has since learned that it will not be held harmless for our enrollment shortfall in 2020-2021):

[https://www.boarddocs.com/ca/peralta/Board.nsf/files/B4R2ZB78C213/\\$file/Fiscal%20Year%2019-20%20budget%20workshop.pdf](https://www.boarddocs.com/ca/peralta/Board.nsf/files/B4R2ZB78C213/$file/Fiscal%20Year%2019-20%20budget%20workshop.pdf)

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[https://www.boarddocs.com/ca/peralta/Board.nsf/files/AZXQVT547AE9/\\$file/Tentative%20Budget%20Presentation%20FY18-19.pptx](https://www.boarddocs.com/ca/peralta/Board.nsf/files/AZXQVT547AE9/$file/Tentative%20Budget%20Presentation%20FY18-19.pptx)

<sup>16</sup> Annual Financial Reports here: <http://web.peralta.edu/business/annual-financial-reports/>. Outstanding Student Receivables go from a low of \$4,260,394 for fiscal year 2013 to \$8,761,695 in fiscal year 2016.



- And, amidst the above issues, the District also had to refund the state an additional \$4 million last year after not meeting an enrollment target, 19,500 FTES, that Trustees failed to identify as highly unlikely or initiate any discussion of alternatives if the target was not met.<sup>17</sup>
- Yet areas where the Board of Trustees have been more engaged include recent Board actions to convene “workgroups” related to District Finance, efforts to engage with District employees, and efforts to take part in a steering committee on District IT (including taking part in interviews and selection of an interim VC of IT) which seem to violate the Board’s delegation of authority to the Chancellor, [BP2510](#)<sup>18</sup> (Participation in Local Decision Making), and [AP7123](#)<sup>19</sup> (Hiring Acting Interim Academic and Non-Academic Administrators). Trustees were warned against this kind of involvement during the 2010 accreditation process and recent actions here bring into question whether Peralta risks getting sanctioned due to blurring lines of responsibility and authority.<sup>20</sup>
- The Board of Trustees are also ultimately responsible for the poor state of Peralta’s facilities despite a c. \$400 million general obligation bond passed in 2006 by Alameda County, of which over \$100 million remains unspent, that has been significantly mismanaged and citizen oversight undermined through the Trustees decision to combine Measure A and Measure B oversight to one committee.<sup>21</sup>
- Finally, in regard to “represent the public interest,” the mismanagement of Measure A and Measure B has gone seemingly unnoticed and unaddressed by the Trustees despite repeated warnings by the Citizen Oversight Committee (COC) that culminated in the resignation of the President of the COC this August.<sup>22</sup>

The above is by no means an exhaustive list of problems associated with Board of Trustee actions and inactions over the last three years, but they are some of the most worrisome and potentially damaging to the longer-term health and viability of the District

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<sup>17</sup> [https://www.boarddocs.com/ca/peralta/Board.nsf/files/AYK27279A42A/\\$file/Budget%20Amendment%20FY17-18presentation-final.pdf](https://www.boarddocs.com/ca/peralta/Board.nsf/files/AYK27279A42A/$file/Budget%20Amendment%20FY17-18presentation-final.pdf)

<sup>18</sup> <http://web.peralta.edu/trustees/files/2013/12/BP-2510-Participation-in-Local-Decision-Making1.pdf>

<sup>19</sup> <http://web.peralta.edu/trustees/files/2013/12/AP-7123-Hiring-Acting-and-Interim-Academic-and-Non-Academic-Administrators1.pdf>

<sup>20</sup> <http://web.peralta.edu/accreditation/files/2010/03/Peralta-Accreditation-Report.pdf>

<sup>21</sup> The Citizen Oversight Committee website is here: <http://web.peralta.edu/publicinfo/citizens-oversight-committee/> but it does not cover anything before 2015. You have to go here to find any explicit information on Measure A oversight prior to 2015: <http://web.peralta.edu/measurea/citizens-bond-oversight-committee-membership/>

<sup>22</sup> <https://www.mercurynews.com/2018/08/17/former-peralta-college-district-watchdog-urges-voters-to-reject-november-parcel-tax/>



VII. DAS questions whether the Chancellor Laguerre has failed to satisfactorily meet the position's expectations and responsibilities.

Specifically, DAS cites:

- An ongoing failure to meaningfully consult and work collaboratively with academic senates regarding either Peralta's Planning and Budgeting Integration Model (PBIM) or to provide the open, transparent, and timely provided information necessary to enable meaningful shared/participatory governance.<sup>23</sup>
- This lack of consultation and collaboration has exacerbated the District's ongoing issues regarding institutional planning and budget preparation that has rarely been based on data or meaningful and purposeful collaboration and has instead too often relied upon interim or new administrators or consultants forced to make "urgent" decisions without adequate information, context, or an articulated vision for the future of Peralta.
- A recent example of the misuse of interim appointments and consultants include the decision in 2016 to place existing IT leadership on administrative leave and hire the Ferilli Information Group through a no-bid "emergency" contract, approved by the Board of Trustees, that ultimately cost the District over \$900K despite what another consultant, hired by the District after the fact to conduct a review of Ferilli's performance for \$50K, a lack of planning or direction for what Ferilli were actually intended to do. Including the salaries and benefits that were paid to the IT administrators placed on leave while their contracts ran out this amounted to over \$1M spent for seemingly no actual purpose.<sup>24</sup>
- There are over a dozen examples of the Chancellor's use of interim appointments that range from the District Office senior administrators (VCs or AVCs) to College Presidents and Vice-Presidents. Some of these "interim" appointments lasted well over 12 months and in none of these appointments was the established administrative process fully followed ([AP7123](#)). Most recently the Chancellor made an agreement with then DAS President Cleavon Smith and PFT President Jennifer Shanoski to no longer hire interim administrators. He is currently hiring an interim VC of IT despite recommendations from IT staff to not do so in September.<sup>25</sup>
- What have been the most damaging areas of mismanagement, however, are budget planning and oversight amidst Peralta's ongoing decline in enrollment. Here instead of budgeting and spending responsible the District Office and Central Services has grown disproportionately large under the present Chancellor, now featuring a larger budget than any College, through ongoing misallocation and misuse of Measure B—that only now is being addressed despite the continued denials from the Chancellor that Measure B was misused (A 2017 "independent audit" by Peralta's external auditors for the last 16+ years

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<sup>23</sup> <http://web.peralta.edu/pbi/>

<sup>24</sup> For examples of the District Technology Committee's attempts to understand Ferilli's role in the District see the following minutes: <http://web.peralta.edu/pbi/files/2010/04/Peralta-DTC-Meeting-Minutes-10-14-16.docx> and <http://web.peralta.edu/pbi/files/2010/04/DTC-Meeting-Minutes-12-9-2016-Final2.docx>

<sup>25</sup> Minutes for the October 2<sup>nd</sup> District Academic Senate meeting regarding this should be forthcoming.



that was asked to determine if Measure B money had been used to directly pay administrators—something specifically forbidden in the parcel tax language—found it did not.<sup>26</sup> Not addressed was why the District was using Measure B to hide c. \$8M a year in non-instructional spending in order to meet state law regarding 50% of general expenditures having to be spent of classroom instruction).<sup>27</sup>

- Indeed, because of a lack of effective management, oversight, and planning the District has had to pay millions of dollars over the last several years as bad debt (outstanding student receivables, for example), refunds of low enrollment (our FTES shortfall last year even after “borrowing” FTES), or even extra costs due to our poor and outdated IT infrastructure and poor maintenance of facilities (costs borne every year at this point).<sup>28</sup>
- All of the above has constituted an ongoing problem that has been made more urgent by recent state decisions to alter the California Community College funding formula and state mandates pursuant to Vision 2022 Goals. In short Peralta faces real and substantial changes it needs to make but lacks any central planning to date, sufficient data to plan locally, available general resources to support needed changes, and, instead, is facing a \$6M-\$14M budget shortfall in 2021, depending on whether the parcel tax is renewed, that will likely be tied to an ongoing reduction in District enrollment targets that will fundamentally alter the ongoing size and nature of our District well into the future while leading to cuts to hundreds of classes and lost faculty. And yet planning and discussion of this coming crisis has not been led by the Chancellor and Peralta is largely unprepared for the changes that are coming.

Again, the above is by no means an exhaustive list of problems associated with Chancellor’s actions and inactions over the last three years, but they are some of the most worrisome and potentially damaging to the longer-term health and viability of the District.

#### VIII. Solution: Toward Better Leadership, Consultation and Collaboration, and Oversight and Management

To effectively meet the crisis Peralta is facing requires accountability, transparency, courageous conversations, and a change in our leadership—whether that change is a change in personnel or a change in behavior.

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<sup>26</sup> <http://web.peralta.edu/publicinfo/files/2015/02/Parcel-Audit-Tax-Report.pdf> Please note the audit explicitly states that it is not looking at anything beyond the parcel tax (such as how it is being used in conjunction with the General Fund) and instead are focused on the financial statements and only the financial statements.

<sup>27</sup> <https://outlook.office.com/owa/?realm=peralta4.mail.onmicrosoft.com&path=/attachmentlightbox>

<sup>28</sup> See recent Annual Adopted Budgets and Annual Financial Statements for examples.



The Peralta Community needs, and deserves, leadership that will not only acknowledge and learn from past mistakes but will also actively work together with the Peralta Community to fix these mistakes and not repeat the same actions and inactions that imperil Peralta's wellbeing today and have periodically threatened Peralta in the past.

The decision facing Peralta faculty is the answer to an important question: How do we hold the Chancellor and the Board of Trustees accountable for their actions and inactions and whether we believe the sum total of their performance in the recent past merits a vote of no confidence or censure? This mechanism is one of the only mechanisms Peralta faculty have as part of their 10+1 shared governance role of communicating a negative evaluation the Chancellor and/or Board of Trustees as a whole.

**A vote of no confidence** in the Chancellor and/or Board of Trustees means, essentially, that you do not believe that one or both have effectively carried out their responsibilities and, additionally, you do not believe that one or both can, or will, remedy the situation to carry out their responsibilities moving forward.

**A vote of censure** for the Chancellor and/or Board of Trustees means in this case that you are faulting one or both for not having effectively carried out their responsibilities but that you believe they might be able to take corrective actions to better meet their responsibilities in the future.

## IX. Summary

This call for a discussion regarding a vote of no confidence or a censure of the Chancellor and the Board of Trustees is to discuss and seek guidance from faculty regarding how the District Academic Senate (DAS) and faculty more generally should proceed.

DAS sees the many issues and concerns regarding the Chancellor and the Board of Trustees cited above as deeply rooted in the 10+1 academic and professional matters we collectively, as faculty, are tasked with representing.

In this regard the District Academic Senate charge that Peralta's Chancellor and Peralta's Board of Trustees have demonstrated ineffective leadership, consultation and collaboration, and oversight and management which has resulted in fiscal mismanagement and crisis, enrollment decline, and poor services that need to be addressed as soon as possible. We seek to inform faculty about the lack of leadership from the Chancellor and Board of Trustees on a number of issues over the years that has led us to our current fiscal and academic state of affairs and we intend this current action, regardless of the outcome, to be a positive intervention promoting





more effective and collaborative leadership from both the position of Peralta's Chancellor and Peralta's Board of Trustees.

Faculty are being asked to review provided information, discuss and engage with the issues as you understand them, and to provide feedback regarding the course of action, if any, you believe faculty should take in pursuit of promoting accountability and change in our leadership:

- Should there be a vote of no confidence of the Chancellor?
- Should there be a vote of no confidence of the Board of Trustees?
- Should there be a vote of censure of the Chancellor?
- Should there be a vote of censure of the Board of Trustees?

Engagement Process:

1. Distribute the White Paper to all Peralta Faculty via email and mailbox
2. Discuss within College Academic Senates and/or at Academic Senate Special Meetings
3. Hold DAS Forums for faculty at the four Colleges
4. Take Faculty Feedback
5. DAS Vote regarding no confidence and/or censure
6. Hold Faculty Referendum on DAS Vote

Let it be clear that our outline of the above stated concerns, as well as any others brought forth by members of the Peralta community, are asserting our dissatisfaction that our 10+1 roles have been dismissed and cast aside. Our work, in collaboration with the District and the Board of Trustees, is based on seeking to fulfill our District's mission and values of contributing to student success and achievement. The District Academic Senate has a responsibility to them and their futures.

College Academic Senates and faculty will discuss this at the colleges through forums and or surveys and report back to DAS before DAS will take any further action. DAS anticipates this process will be completed prior to the end of Fall semester 2018.