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ATTORNEY-CLIENT PRIVILEGED ADVICE MEMORANDUM

To: Adrienne Mitchell (LCCEA); Ryan Olds and Peter Brogan (OEA)
From: Luke Kuzava and Evianna Colvin (Tedesco Law Group)
Date: September 30, 2025
RE: Lane Community College Noncompliance with Local Budget Law Concerns

This memorandum analyzes concerns regarding Lane Community College's potential noncompliance with Oregon local budget law and potential remedial options.

My understanding of the relevant background is as follows: on or about September 26, LCC President Stephanie Bulger reported, in a campus-wide address, that the College's Board of Education had approved a plan to cut three million dollars from the LCC budget each of the following three fiscal years. This assertion was surprising and concerning to the Association, as well as reportedly to the campus community in general. The Association maintains a consistent presence at Board of Education public meetings and work sessions, and consistently reviews the agenda items and decisions of the Board arising from those meetings. Upon review, LCCEA confirmed that the Board had never voted on the budget cuts that were described in the President's announcement.

A review of the upcoming September 30, 2025 Board meeting agenda, however, did reveal something: at that Board meeting, one of the agenda items is a vote on a document that President Bulger has submitted for Board approval, entitled "2025-2026 President Goals and Evaluation Framework (Final)." That was submitted as an 11-page PDF. This document purports to have been developed at a September 17, 2025, Board of Education work session.

On page 6 of the PDF, the document sets forth a "fiscal condition" goal, with several bullet points, one of which is: "Reduce annual structural deficits by ~\$3M through FY2029."

Taken in context with the President's speech, in which she asserted that \$3 million in annual budget cuts had already been approved by the Board for the next several fiscal years, the President appears to be asserting that by approving this "2025-2026 President Goals and Evaluation Framework," the Board of Education is substantively approving the budget cuts alluded to as "goals" in those frameworks.

For reasons explained below, given those facts, one of two things is possible: either (A) the President is materially mischaracterizing what the Board has actually done (or could lawfully do by virtue of approving this "President Goals" document), or (B) the Board, and by extension the

College, has committed (or is about to commit) a very egregious and obvious violation of Oregon's Local Budget Law (ORS 294.305 to 294.565).

Oregon Local Budget Law (ORS Chapter 294)

To understand the College's legal obligations in this situation, a cursory overview of Oregon's local budget laws is important. Essentially, virtually every local governmental entity within the state of Oregon (from rural fire districts, to school districts, to counties, to cities), are all subject to the same legal requirements regarding budget provisions, which are generally found in ORS 294.305 through 294.565. Lane Community College is no exception.

ORS 294.321 establishes the following statutory purpose of the local budget laws (with my emphasis added):

1. To establish standard procedures for the preparation, presentation, administration and appraisal of budgets of municipal corporations;
2. To provide for a brief description of the programs of a municipal corporation and the fiscal policy which is to accomplish these programs;
3. To provide for estimation of revenues, expenditures and proposed taxes;
4. To provide specific methods for obtaining public views in the preparation of fiscal policy;
5. To provide for the control of revenues and expenditures for the promotion of efficiency and economy in the expenditure of public funds; and
6. To enable the public, taxpayers and investors to be apprised of the financial policies and administration of the municipal corporation in which they are interested.

The statutory purpose is an important starting point in understanding the obligations of the local budget laws, because to the extent that there is any ambiguity in the law (and in this case, for reasons explained below, I don't see much ambiguity at all), the laws should be interpreted as requiring standard processes, transparency, and citizen involvement before a local governmental entity can make substantive changes to its budgets.

While a comprehensive summary of local budget law is beyond the scope of this memo, the following specific requirements are relevant to LCCEA's current concerns:

- Each local government must designate a budget officer, either through appointment by the governing body or via charter. ORS 294.331. The Budget officer must prepare or supervise the preparation of the budget document. *Id.*
- Each local government must also establish a budget committee, in accordance with ORS 294.414. In relevant part, the budget committee must consist of all of the members of the governing body (here, the Board of Education), as well as electors of the municipal corporation appointed by the governing body. ORS 294.414(2). Appointive members of the budget committee "may not be officers, agents, or employees of the municipal corporation." ORS 294.414(4). Historically, the College has implemented and maintained a budget committee, that consists of the seven members of the Board of Education as well as seven elected members of the community.

- The executive officer must prepare, for each budget cycle, a “budget message,” prepared in accordance with the requirements of ORS 294.403. That budget message must, among other things, explain the budget document,¹ contain a brief description of the proposed financial policies for the ensuing year or budget period, highlight the “important features” of the budget document, set forth “the reason for salient changes from the previous year or budget period in appropriate and revenue items,” explain “the major changes in financial policy,” and set forth any change contemplated in the municipal corporation’s “basis of accounting” and explain the reasons for the change and the effect of the change on any operations.
- The budget committee must then expressly set at least one meeting for the purpose of receiving the budget message prepared under ORS 294.403 and the budget document, and “providing the members of the public with an opportunity to ask questions about and comment on the budget document.” ORS 294.426. Note that the public comment component is treated as critical: the statute expressly provides that if the budget committee does not provide an opportunity for public questions and comment at the first meeting in which the budget document is discussed, the committee “must provide the public with the opportunity at a subsequent meeting.” ORS 294.426(2)(b). Moreover, the budget officer must provide *express* public notice² of these meetings to the public in a manner that states the purpose, time and place of the meeting(s), provides notice as to where the budget document is available, and provides notice that the public will be given an opportunity for questions and comment. ORS 294.426(4). Of critical importance, while the budget officer may provide members of the budget committee with a copy of the budget document “solely for the information and use of the individual members,” the budget committee “**may not deliberate on the budget document as a body before the first meeting.**” ORS 294.426(6)(a). Also, once the budget document is provided to the members of the committee, the budget officer must file a copy of the budget document immediately thereafter, and make the budget document available for public inspection as a public record. ORS 294.426(7).

¹ The “budget document” itself is defined, under ORS 294.311(6), as a document containing “the estimates of expenditures and budget resources as set forth on the estimate sheets, tax levy, and the financial summary”

² The specific requirements of publication are not discussed here, because at this time, to my knowledge, the College has not prepared a budget document or budget message *at all*, or scheduled any budget committee meetings to receive and discuss the same for the 2026-2027 fiscal year or future years. That said, I will flag that the publication requirements are highly specific and if the College *does* ultimately take the procedural steps required by Oregon Local Budget Law to propose and approve budget cuts, LCCEA should also closely examine whether the College adheres to those publication requirements.

- The budget committee must hold one or more public meetings (and generally may not hold any meetings that are *not* open to the public and subject to prior public notice requirements), for the purpose of revising and ultimately approving the budget document. See generally ORS 294.428.
- Once the budget committee approves the Budget, the governing body of the public entity must hold at least one budget hearing and must publish a “notice of budget hearing and financial summary” five to 30 days before the scheduled hearing. ORS 294.448. It must then hold the budget hearing on the date specified in the public notice, for the express purpose of listening to citizens’ testimony on the approved budget. ORS 294.453.
- When the Board *does* approve a budget, it must file a copy of the resolution adopting the budget, and of any resolution making appropriations for the budget, with the Oregon Department of Revenue. ORS 294.458.

In addition to the above process requirements, there are a number of other substantive requirements on how to prepare estimates and classifications of expenditures by line item for each fiscal year, and other required details of a budget document. These requirements are beyond the scope of this memo because at this time, the College has not prepared any budget documents for any of the fiscal years for which President Bulger is claiming that the Board of Education has already approved significant budget cuts.

Board Policy 4350

Upon information and belief, the President has in the recent past pointed to LCC Board Policy 4350, which she claims authorizes the President to unilaterally make program or service reductions without a Board of Education vote. Board Policy 4350 provides, in relevant part, that the Board of Education shall “[a]pprove major substantive changes in the college’s mission, policies, and programs.”

I have not been made aware of any detailed explanation by President or by the College as to the rationale for why this policy somehow overrides the statutory requirements of ORS Chapter 294, but it is difficult to imagine how that could possibly be the case. First, the plain text of the Board Policy states that the *Board* must approve major substantive changes. There is no plausible reading of the statute that allows the President to make those changes without Board approval – indeed, any such interpretation would be flatly at odds with the policy’s plain language. Moreover, any such interpretation would be completely inconsistent with the requirements of ORS Chapter 294 set forth above, which require a budget cut decision to be approved by the budget committee and *then* the Board. A Community College Board policy cannot override a statute enacted by the Oregon Legislature, and to the extent that the Board policy is inconsistent with a statute, or interpreted as being inconsistent with a statute, that would have the effect of rendering the Board Policy unlawful and unenforceable.

Similarly, to the extent that the President may argue that Board Policy 4350 would allow the Board to approve proposed budget cuts without having to first present those cuts to the Budget Committee through the statutorily-required processes discussed above, any such interpretation would also be unlawful and unenforceable.

That said, I should note that I do not read Board Policy 4350 as being inconsistent with ORS Chapter 294. While programmatic cuts no doubt do count as a “major substantive change” for purposes of the Board policy and do require a Board vote, that would not have the effect of *replacing* the requirements of ORS Chapter 294. Instead, the Board policy would simply impose an additional requirement.

To put this another way: If the President (through the College’s designated budget officer) wishes to propose a budget cut like the ones described in the September 26 speech, the President, in order to comply with Board Policy 4350, would have to obtain Board approval for those proposed cuts as a proposed “major substantive change” to the College’s programs, but then also present those cuts to the Budget Committee (which includes the Board of Education but also many additional members) review, revise, and approve the budget document that contains those cuts through the lengthy process outlined in ORS Chapter 294 – which, again, includes multiple transparency requirement, opportunities for citizen participation, etc. But there is simply no plausible reading of Board Policy 4350 that would have the simple requirement of “board approval” *override or replace* the very clear statutory requirements set forth in Oregon’s local budget law (nor is there a plausible reading of Board Policy 4350 that would allow the such program or service cuts to be made *without* a vote of the Board of Education).

Again, the underlying principal to keep in mind here is that a community college board policy cannot override a statute enacted by the Oregon legislature. Likewise, a community college president cannot override a statute enacted by the Oregon legislature or a policy set by the community college Board of Education. For these reasons, Board Policy 4350 has no effect on the applicability of the provisions of ORS Chapter 294 set forth above.

Analysis

To the extent that the President has claimed that the College Board of Education has already approved substantial budget cuts for the upcoming three fiscal years, any such claim is either wildly inaccurate or, if accurate, means that the College has violated the law.

First, the entire premise of the claim – that the Board of Education can approve such a budget cut – is not accurate. The decision to reduce an operating budget by \$3 million cannot be approved solely by the Board – as set forth above, that decision must be first reviewed and approved by the College’s budget committee, and *then* the final approved product that comes out of the budget committee must receive final approval by the Board.

Given the facts that have been presented to me, it seems extremely clear that the \$3 million in cuts that President Bulger claims have already been “approved” have never been set forth anywhere in a budget document or budget summary, and have never been presented to and reviewed/revise by the College’s budget committee in a manner that is consistent with the requirements of the public notice and citizen participation requirements set forth in ORS Chapter 294. If any of that had occurred, there would be an indisputable and clear record, in the form of public notices and records of the public budget committee meetings in question. This is simply not something that can occur “off the record,” so if adherence to the Chapter 294 requirements had occurred, there would be no question about that.

Given the circumstances, I want to be as clear as I can be on this point: **the LCC Board of Education plainly has no legal authority to approve any proposed budget cuts before those proposed cuts are (1) written into a budget document by the College’s budget officer; (2) presented to the College’s Budget Committee in accordance with the legal requirements of**

ORS 294.426 (including all public notice and public participation requirements); (3) approved (potentially with revisions) by the budget committee pursuant to ORS 294.428, and (4) providing advance notice of a public “budget hearing” meeting as required by ORS 294.448, and (5) actually holding that “budget hearing” meeting in a manner that provides for public input as required by ORS 294.453.

There are, of course, additional requirements that the College and the Board of Education must adhere to, including but not limited to Board approval of specific program or service reductions or suspensions as required by Board Policy 4350, before approving such budget cuts as well (which are beyond the scope of this memo). But at a minimum, there appear to be at least five major legal requirements that have not been met that must be met before the Board of Education has any legal authority to approve budget cuts for upcoming fiscal years. That being the case, there is little question that the College Board of Education has no legal authority to approve actual budget cuts along the lines of those referenced in President Bulger’s speech, or in her “2025-2026 President Goals” plan at this point.

Given that that is the case, it is difficult to imagine a plausible explanation for why President Bulger would have announced to the entire campus that such a plan for budget cuts have already been approved by the Board of Education, other than that her statement was based on a fundamental misunderstanding of the legal requirements for approving budget cuts of that sort. Either way, the fact that she announced this certainly does not make it true. Given the misunderstanding that this incorrect claim has likely caused among employees and the student body, it would be advisable for her to issue a correction, and LCCEA may consider formally asking her to do so.

With respect to the upcoming September 30 Board meeting: similarly, it seems beyond clear that the Board has no legal authority to actually approve the budget cuts that are referenced, glancingly, in the President’s “2025-2026 President Goals” document for which she is seeking board approval. There is simply no way that the Board has the legal authority to approve budget cuts that have never been presented with any budget document and budget message that actually contain those proposed cuts. I believe that it is important to raise this issue at the Board meeting and make sure that the Board is put on notice that it has no legal authority to do this.

Now, if the President were to clarify that all she is doing by presenting her “2025-2026 President Goals” plan to the Board is announcing her intent to propose such cuts, at some point (or points) in the future, through the proper channels and in full compliance with all of the requirements of ORS Chapter 294, I suppose she is within her rights to publicly announce that intent (although announcing such an intent would be such a trivial and inconsequential thing to do at this point that I am not sure why it would even be something she’d want to bring before the Board at this point – she doesn’t need Board approval to publicly announce that she intends to seek approval to do things later).

In terms of how the Board can respond when presented with this: it is important to keep in mind that all of the Board members are also members of the budget committee, and the budget committee members are prohibited under ORS 294.426(6)(a) from deliberating on any budget document as a body before their first meeting. So if the Board members approve of the President’s plan in a way that creates the (correct or incorrect) impression that the Board (or its members) are *authorizing* budget cuts for any future years or deliberating on the actual substance of any budget cuts before those cuts are actually presented to the Budget committee and before the Budget committee meets to discuss those plans, such an action from the Board may violate

ORS 294.426(6)(a), although it would depend on the specific circumstances of exactly what the Board and its members do or say in the meeting.

All of that said, the bottom line is that these budget cuts have not yet been actually proposed in a way that even begins to comply with Oregon local budget law. Because of that, the Board could not lawfully approve of the President's yet-to-be-formally-proposed budget cuts at this time, even if it were inclined to do so.

Conclusion and Action Items

At this point, I think the most important thing to do is to make sure that all relevant parties (namely the Board and the President) are made aware of the requirements of Oregon Local Budget Law, as outlined in this memo (and again, there are other legal requirements that are beyond the scope of this memo). This is because the most important thing, in the short term, is to make sure that all decision-makers understand exactly what the President is asking the Board to approve, and what the Board has *legal authority* to approve at this point in time, and to make sure that there is no room for confusion on those points.

If the President or the Board believes, in spite of the clear law to the contrary, that the Board has legal authority to approve actual forward-looking budget cuts for multiple fiscal years at this point, for instance, if the Board votes to approve the goals as presented with the inclusion of the "Reduce annual structural deficits by ~\$3M through FY2029" bullet point, then that may be a reason for LCCEA to explore legal options to ensure that the College complies with Oregon Budget laws. If that seems to be the case following the September 30 Board meeting, please let me know and we can explore next steps at that point.