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Attorneys for Maricopa County Community College District Board

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

STATE OF ARIZONA ex rel. Attorney)	
General Thomas C. Horne,)	No. CV2013-009093
)	
Plaintiff,)	DEFENDANT'S ANSWER
)	
vs.)	(Assigned to the Hon. Arthur
)	Anderson)
MARICOPA COUNTY COMMUNITY)	
COLLEGE DISTRICT BOARD,)	
)	
Defendant.)	
)	

Defendant Maricopa County Community College District Board ("MCCCD")
answers the State's Complaint as follows:

1. Admits paragraphs 1-3, 14 and 21 of the Complaint.
2. Denies paragraphs 19 and 25 of the Complaint.
3. In response to paragraph 4 of the Complaint, denies that the Attorney General has the duty to prosecute any proceeding in the State's court in which the State is a party, and admits the remaining allegations in paragraph 4.

1 4. In response to paragraphs 5, 7 and 8 of the Complaint, states that the
2 statutes cited speak for themselves, and deny the remaining allegations of paragraphs 5,
3 7, and 8.

4 5. In response to paragraph 6 of the Complaint, denies that the Personal
5 Responsibility and Work Opportunity Reconciliation Act (“PRWORA”) defines “state
6 or local public benefits” to include in-state tuition rates; states that the statute cited
7 speaks for itself; and affirmatively alleges that the federal law applicable to in-state
8 tuition rates is not PRWORA, but rather the Illegal Immigration Reform and Immigrant
9 Responsibility Act of 1996, 8 U.S.C. § 1623.

10 6. In response to paragraph 9 of the Complaint, states that the statutes cited
11 speak for themselves and that the remainder of paragraph 9 contains argument and/or
12 legal conclusions to which no response is required. To the extent that a response is
13 required, Defendant denies the allegations in paragraph 9, and affirmatively states that
14 A.R.S. § 1-502 grants eligibility for in-state tuition to the holder of any employment
15 authorization documents issued by USCIS.

16 7. In response to paragraph 10 of the Complaint, admits that Proposition 300
17 was approved by the voters of Arizona in 2006, states that the law speaks for itself, and
18 states that the remainder of paragraph 10 contains argument and/or legal conclusions to
19 which no response is required. To the extent that a response is required, Defendant
20 denies the remaining allegations in paragraph 10.

21 8. In response to paragraphs 11 and 12 of the Complaint, states that the
22 statutes cited speak for themselves, and states that the remainder of paragraph 11
23 contains argument and/or legal conclusions to which no response is required. To the
24 extent any response is required to the remainder of paragraph 11, Defendant denies that
25 Arizona voters affirmatively prohibited persons without “lawful status” from receiving
26 the benefit of in-state tuition rates at community colleges, and affirmatively states that

1 the term “without lawful immigration status” is not defined by state law, and that
2 “lawfully present” and “lawful status” are used interchangeably and without any
3 meaningful difference in state law. Defendant also affirmatively states that the voters
4 intended to prohibit individuals who are not “lawfully present” in the United States
5 from receiving certain benefits, that the Arizona Legislature subsequently defined how
6 individuals were to demonstrate that they are lawfully present, and that the holders of
7 employment authorization documents issued by USCIS are eligible for in-state tuition.

8 9. In response to paragraph 13 of the Complaint, admits that Proposition 300
9 is protected by the Voter Protection Act of the Arizona Constitution, and states that the
10 remaining portions of paragraph 13 contain argument and/or legal conclusions to which
11 no response is required. To the extent any response is required to the remainder of
12 paragraph 13, Defendant denies that Arizona voters affirmatively prohibited persons
13 without “lawful status” from receiving the benefit of in-state tuition rates at community
14 colleges, and affirmatively states that the term “without lawful immigration status” is
15 not defined by state law, and that “lawfully present” and “lawful status” are used
16 interchangeably and without any meaningful difference in state law. Defendant also
17 affirmatively states that the voters intended to prohibit individuals who are not “lawfully
18 present” in the United States from receiving certain benefits, that the Arizona
19 Legislature subsequently defined how individuals were to demonstrate that they are
20 lawfully present, and that the holders of employment authorization documents issued by
21 USCIS are eligible for in-state tuition.

22 10. In response to paragraph 15 of the Complaint, admits that USCIS has
23 established a process for DACA-eligible individuals to request deferred prosecution and
24 to obtain employment authorization documents, states that the instructions for Form I-
25 821D speak for themselves, and denies the remaining allegations in paragraph 15.
26

1 11. In response to paragraph 16 of the Complaint, states that the DACA
2 proclamation speaks for itself, and states that the remainder of paragraph 16 contains
3 argument and/or legal conclusions to which no response is required. To the extent any
4 response is required, Defendant denies the remaining allegations in paragraph 16.

5 12. In response to paragraph 17 of the Complaint, states that the statutes cited
6 speak for themselves, and states that the remainder of paragraph 17 contains argument
7 and/or legal conclusions to which no response is required. To the extent any response is
8 required, Defendant denies the remaining allegations in paragraph 17.

9 13. In response to paragraph 18 of the Complaint, admits that from and after
10 the adoption of Proposition 300, it accepted employment authorization documents as
11 evidence of eligibility to be considered for in-state tuition rates, and consistent with that
12 practice and in compliance with A.R.S. § 1-502, on or about August 15, 2012, it
13 announced that employment authorization documents issued to DACA participants
14 would be considered evidence that the student was qualified to be considered for in-
15 state tuition rates. Defendant denies the remaining allegations in paragraph 18, and
16 affirmatively states that state law provides public entities with a list of documentation to
17 be accepted as evidence of appropriate status to obtain public benefits, and employment
18 authorization documents are among the documents listed by A.R.S. § 1-502(A)(7).

19 14. In response to paragraph 20 of the Complaint, admits that it has granted
20 in-state tuition to certain DACA-eligible students and that the State requested
21 information from Defendant regarding its in-state tuition policy in September 2012,
22 states that it is without knowledge or information sufficient to form a belief regarding
23 when the Attorney General learned about Defendant's in-state tuition policy as it relates
24 to DACA-eligible students, and denies the remaining allegations in paragraph 20.

25 15. In response to paragraphs 22 and 24 of the Complaint, realleges and
26 incorporates each and every response to paragraphs 1 through 21 of the Complaint.

1 DATED this 29th day of July, 2013.

2 OSBORN MALEDON, P.A.

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4 By /s/ Lynne C. Adams
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11 *Attorneys for Maricopa County*
12 *Community College District*

13 THE FOREGOING has been electronically
14 filed this 29th day of July, 2013.

15 COPY e-mailed this 29th day of July, 2013, to:

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17 Leslie Kyman Cooper
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22 *Attorneys for the State of Arizona ex rel.*
23 *Attorney General Thomas C. Horne*

24 /s/ Dian Burton

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