



Board of Trustees

November 28, 2011

Dear Members of the Pomona College Community:

The last few weeks have been particularly challenging for the Pomona College community as we have sought to comply with our legal obligation to seek re-verification of employee work authorization documents. The Board of Trustees has been following the situation and wants to respond to the communications we have received from the Pomona community, including emails, a resolution from the faculty, a statement from the ASPC Senate, and an open letter signed by more than 40 students.

We understand the concerns that have been expressed and recognize that these events challenge fundamental values in our community. We agree that the College and some of its employees have been placed in a difficult and unfortunate situation, which we wish could have been avoided. However, while many of us believe that the country's immigration policies are in need of reform, it is important to emphasize to the Pomona community that the College has a responsibility to comply with the current laws. We respect President Oxtoby's commitment to working to change the immigration laws and to encourage enactment of the DREAM Act.

We believe that President Oxtoby and his administration have managed this difficult situation in accordance with the traditions and values of Pomona College. They have treated all employees with respect and dignity and have honored their privacy. At the same time, they have not discouraged members of the community from expressing their views and criticism about the actions that have been taken. However painful these decisions have been for all of us, we believe they were made in the best interests of the College.

This situation arose following a complaint the Board received earlier this year alleging that it was the policy of the President's administration not to obtain proper work authorization documentation of College employees, and that no such verification of employees' legal authorization to work was ever undertaken by the College as required by law. Here are the facts, the legal requirements, and the College's obligations:

1. The Board had a responsibility to investigate the complaint. The complaint alleged serious violations of federal law which, if substantiated, would put the College at substantial risk of criminal and civil sanctions. The Board leadership determined that the seriousness and specificity of the allegations required the Board to investigate. As the complaint made wide-reaching allegations regarding the College's verification practices during and preceding President Oxtoby's administration, and related to employees across the entire campus,

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the Board leadership determined that a responsible investigation of the complaint required a review of the College's hiring practices and an audit of the College's I-9 (Employee Eligibility Verification) forms for all current employees. Anything short of that could not have reached a reliable conclusion regarding the complaint and the College's compliance with federal law.

The Board engaged immigration experts from the law firm of Sidley Austin to conduct the investigation and to advise the College on its legal obligations. The College is continuing to receive Sidley Austin's advice, and like any responsible organization that engages experts like these, we take their advice seriously.

2. We concluded the College's policies comply with the law, but document deficiencies were nevertheless discovered. After the investigation, we concluded that the College's procedures to verify and document the legal work authorization of employees at the time of hire were and are in compliance with the law, and that there was no support for those allegations against the administration and the College. It was and is College policy to require prospective employees to provide necessary work authorization documents in the hiring process. However, as has been reported, document deficiencies were discovered in the I-9 documentation of 84 current employees – staff, faculty and part-time employees.

3. Non-compliance with the law poses serious risks to the College. An employer whose I-9s are deficient is not in compliance with its legal obligations until it has followed up with all such employees to verify their documents and the I-9 violations are corrected. Not being in compliance with the law could jeopardize the College's ability to continue to effectively carry out its educational mission. An employer can be subject to civil fines, criminal penalties and debarment from participation in federal and state contracts and grants, including research grants and certain student financial aid programs. These risks to the institution were especially noteworthy, given that the government is aggressively enforcing the I-9 laws against employers.

4. The administration has handled the matter with sensitivity, openness and respect for the law. In dealing with each affected employee, President Oxtoby and his administration have sought to respect individual confidentiality, while meeting the College's legal obligation to respond reasonably and fix the problems as quickly as possible.

- Initial notification letters were delivered by hand to ensure that each employee received the letter and had the maximum available time to respond. The letters were delivered in confidential, sealed envelopes to ensure employee privacy.
- Initial one-on-one meetings were scheduled with each employee to explain the process and provide a list of the required documentation.

- The Human Resources Department has maintained an open door to answer any questions throughout this process. Reminders are being delivered to every employee whose issues are not yet resolved.
- The initial notification letters, reminders and lists of required documentation were prepared in both English and Spanish to avoid any confusion. A Spanish language translator was available for all the scheduled meetings with the Human Resources Department.
- While under no legal obligation to do so, the College provided the affected employees with legal resources – at College expense – to obtain assistance in gathering the necessary documentation. Any affected employee could use the services of either of two Los Angeles-area attorneys, who were selected based on their regional reputation and expertise in assisting individuals with work authorization matters and immigration issues. Employees were also free at their own expense to engage any other attorneys of their choosing for assistance in resolving the document deficiencies.

5. All affected employees are being treated equally and given time to gather appropriate employment documentation. The College gave all affected employees from November 7 through December 1 to fix their documentation deficiencies. As of today, 62 of the 84 employees have done so. We support the administration's determination that this time period provided employees with sufficient time to gather or replace lost or misplaced documents while meeting the College's obligations to come into compliance under the law. For many lost documents, the I-9 rules permit an employee to present a receipt for ordering a replacement. For most of those documents, such as a Social Security card, U.S. passport or lawful permanent resident card, the receipt for ordering a replacement can be obtained on the same day the order is placed. The Human Resources Department and legal resources have been and remain available to assist any employees who need help with obtaining the documents.

6. We re-affirm Pomona College's commitment to an inclusive environment. At this point, the Board, like the administration, remains hopeful that the remaining employees will be able to resolve their issues. The administration has also been appropriately sensitive to the hardship facing employees who cannot demonstrate their authorization to work. For those whose employment is terminated as a result of this situation, the College will be providing severance benefits based on years of service, as well as a continuation of their current health care coverage at College expense until June 30, 2012. We fully endorse this approach.

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The faculty resolution, also supported by a statement from the ASPC Senate, states:

The faculty expresses its concern about the recent actions taken by the College with regard to the immigration status of dozens of faculty, staff, and students. We are concerned about the message this review of immigration status sends, particularly its effects on the College climate and our educational mission. This issue affects all of us. We call on the Board of Trustees to assert its commitment to an inclusive environment that welcomes people regardless of their race, color, creed, religion, national or ethnic origin, sex, gender, age, sexual orientation, gender identity, marital status, pregnancy, disability, medical condition, veteran's status and immigration status.

We respect the faculty and student support for this resolution, and are pleased to issue the requested statement with the modifications indicated below:

The Board of Trustees hereby re-commits to an inclusive environment that welcomes people regardless of their race, color, creed, religion, national or ethnic origin, sex, gender, age, sexual orientation, gender identity and expression, marital status, pregnancy, disability, medical condition, veteran's status, immigration status, socioeconomic status, or political and economic philosophy, consistent with the law.

Our role as members of the Board is to help set the strategic direction of the College and to be stewards of the College's resources and reputation. We continue to actively monitor this situation at the College, and are available to provide guidance and counsel to the President and his administration as needed.

Sincerely,

Paul Efron '76

Chairman
On behalf of the Executive Committee
of the Pomona College Board of Trustees