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ADOPT REVISED DEBT MANAGEMENT STANDARDS

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STRATEGIC THEME: Enterprise: Cultivate a long-term sustainable college  
enterprise

REPORT: The Debt Management Standards have been reviewed to ensure continued compliance within applicable federal and state laws including the requirements of the Oregon Administrative Rules and Oregon Revised Statutes governing public borrowing and issuance of bonds. Minor wording changes have been made to the Debt Management Standards. In addition, the PCC Tax Exempt Post-Issuance Compliance Policy & Procedures, which the College currently follows, has been added in as Appendix A. This policy is designed to ensure the College (the Issuer) complies with applicable requirements of federal tax law necessary to preserve the tax status of interest on tax-exempt obligations issued by the College. It sets forth compliance procedures so that the College, as Issuer, utilizes the proceeds of all issues of bonds, certificates of participation, bond anticipation notes, and tax and revenue anticipation notes in accordance with applicable federal tax requirements, and complies with all other applicable federal requirements for its outstanding bonded debt.

The scope of the Debt Management Standards allows the College to enter into debt obligations to finance the construction or acquisition of buildings and infrastructure and other assets, maintain existing facilities, purchase land and personal property, or act on the option to refinance or restructure existing debt and other legally acceptable obligations.

In April 2004, the Portland Community College Board enacted Policy B 509 - College Debts, which delegates to

the President the ability to appoint a College Debt Officer whose responsibilities shall include:

- Ensuring compliance with the Oregon Revised Statutes governing public borrowing and issuance of bonds;
- Providing sufficient funds to meet current and future debt service requirements on all indebtedness;
- Ensuring full compliance with the terms and conditions outlined in bond resolutions approved by the Board.

Policy B 509 – College Debts further delineates the overarching functions the College Debt Officer shall perform. The revised Debt Management Standards align those functions with the more detailed responsibilities of the College Debt Officer.

RECOMMENDATION: That the Board of Portland Community College:

1. Approve the revised Debt Management Standards as written in Exhibit A and the PCC Tax Exempt Bond Post-Issuance Compliance Policy as written in Appendix A;
2. Direct the President and any designee, including the appointed College Debt Officer, to implement debt service standards and procedures in accordance with the College's policy review cycle, and where necessary establish additional debt operating procedures for the College.

Exhibit A:

**PORTLAND COMMUNITY COLLEGE**  
**DEBT MANAGEMENT STANDARDS**

The College maintains conservative financial policies, budgets and strategic planning efforts to support strong financial health both short-term and long-term.

I. SCOPE

Within the applicable Federal, State and Local laws, including Oregon Revised Statute (“ORS”) Sections 287A and 341 and Oregon Administrative Rule (“OAR”) 170-061, Portland Community College (“College”) may enter into debt obligations to finance the construction or acquisition of buildings and infrastructure and other assets, maintain existing facilities, purchase land and personal property, or act on the option to refinance or restructure existing debt and other legally acceptable obligations. Unless recommended otherwise by the President or designee, whose recommendation must be approved by the Board, all debt will be incurred at the College level.

These Standards (“Standard”) provide general guidance for the issuance and management of College debt and apply to all debt issued, regardless of the purpose for which issued or the funding source for repayment.

All Debt issued will be in compliance with these standards.

II. PURPOSE

- A. This Standard sets forth criteria for the issuance, use and repayment of debt; and creates procedures and policies designed to:
1. Manage the College’s obligations within available resources;
  2. Minimize the debt service and issuance costs for the repayment structure and period selected;
  3. Maintain the highest credit ratings possible;
  4. Maintain full, complete, and accurate financial disclosure and reporting and comply with regulations requiring continuing disclosure; and
  5. Comply with appropriate and applicable Federal, State and Local law.

### III. RESPONSIBILITY

- A. Authority to issue and manage debt is derived from Federal and State law and the financial and debt management policies of the College. The President or designee shall be responsible for implementing the debt service policies and procedures reviewed in accordance with the College's policy review cycle and shall establish debt operating procedures for the College.
  
- B. This section authorizes the President or designee to appoint a subordinate employee from Finance and Administration to act in the capacity of the Debt Officer.
  
- C. Responsibilities of the Debt Officer shall include:
  - 1. Ensuring compliance with Federal, State and Local laws and rules governing public borrowing, both tax-exempt and taxable, and issuance of bonds and post issuance monitoring pursuant to the PCC Tax Exempt Bond Post-issuance Compliance Policy & Procedures attached hereto as Appendix A (referred to herein as the "Policy & Procedures");
  - 2. Providing sufficient funds to meet current and future debt service requirements on all indebtedness;
  - 3. Ensuring full compliance with the terms and conditions outlined in bond resolutions approved by the Board.
  
- D. The College Debt Officer shall perform the following functions:
  - 1. Upon the approval by the Board, the College shall issue bonds and other obligation in accordance with the guidelines and limitations set forth in ORS Sections 287A and 341 and OAR 170-061 and all specifications in the College's Debt Policies and Procedures and Federal Regulations. As further specified, the College shall maintain a debt service fund to account for property tax revenues levied to pay for the maturing principal and interest of the general obligation bonds and to establish an adequate fund balance to meet the cash outlay requirements until property tax revenues are received.
  - 2. For non-voter approved obligations, ensure the College has sufficient funds to meet future debt payments.

3. Act in the best interest of the College and taxpayers when issuing debt, and market our debt with advice from independent financial advisors and/or underwriters and legal bond counsel to get unbiased professional opinions on methodology and structure. In addition, periodically monitor the changes in interest rates and, where feasible and beneficial to the College, refund the existing debt(s) in accordance with Federal, State and Local laws and regulations.
4. Establish the process for the review, approval and publication of official primary market disclosure, where appropriate, following review by the appropriate office.
5. Account for the debt issues and related transactions in accordance with local budget law and generally accepted accounting principles.
6. Recommend debt operating procedures policies to the appropriate College officials.
7. Maintain the primary relationship and communicate with national rating agencies.
  - a) This communications effort includes providing periodic updates on the College's general financial condition along with coordinating meetings and presentations in conjunction with debt issuances.
8. Prepare and utilize key performance indicators and financial ratios to analyze the College's capacity to assume debt.
9. Monitor compliance with federal tax law for tax-exempt bonds regarding use of proceeds, sizing of debt service funds, and utilization of debt service reserve accounts as appropriate and pursuant to the Policy & Procedures.
10. Pursuant to the Policy & Procedures, prepare materials in compliance with Continuing Disclosure Agreements from prior debt offerings and post on the Electronic Municipal Market Access System ("EMMA"), and track material events in accordance with those Agreements and post information for any material event as required under the Agreements.

#### IV. OBJECTIVES:

- A. The College shall provide the most efficient means of financing the College's short-term and long-term capital needs and to provide sufficient resources to pay for the College's obligations when they mature. General Obligation indebtedness shall only be used to finance legally allowable obligations including but not limited to major capital construction, acquisition, and maintenance projects.
- B. The College shall issue bonds and other obligations in accordance with the guidelines and limitations set forth in the ORS Sections 287A and 241 and OAR 170-061 and all other applicable Federal, State, and Local laws and regulations.
- C. The College shall maintain conservative financial policies, budgets and strategic planning efforts to support strong financial health both short-term and long-term and strive to:
  - 1. Reduce or avoid fluctuations in the debt rate;
  - 2. Minimize borrowing costs and tax-payer impact;
  - 3. Preserve or enhance the College's credit ratings;
  - 4. Assure full, complete, and accurate financial disclosure and reporting compliance;
  - 5. Comply with applicable Federal, State and Local laws and regulations that govern public borrowing and issuance of bonds;
  - 6. Provide sufficient funds to meet debt service requirements on all indebtedness;
  - 7. Ensure full compliance with the terms and conditions outlined in the bond resolution.

#### V. DEBT ISSUANCE

- A. Limitation on Indebtedness:
  - 1. General obligation indebtedness shall be used to finance legally acceptable obligations such as, but not limited to, major capital construction, acquisition and maintenance projects, and pension obligations.
  - 2. The College may consider using full faith and credit obligations to fund legally allowable obligations if sufficient revenues are available to pay the obligation in the future. In addition, the College may consider other types of lease arrangements if deemed beneficial to the College.
  - 3. The College's outstanding debt shall not exceed 65 percent of the Colleges' legal debt margin.

B. Method of Sale:

1. The College shall choose between the following three bond sale methods: negotiated, competitive, or private placement, including placements directly to bank portfolios. Factors that may be considered when determining the most efficient or effective bond sale method include: bond market, bond structure, market timing, credit demand, credit acceptance, credit ratings, use of proceeds, bond size financing complexity, privacy of financial information, credit enhancement participation, desire to negotiate bond covenants.
2. When applicable or as required the College shall prepare and make available upon request, to bidders and investors, a preliminary official statement containing all relevant information required by Federal, State and Local law.
3. The College may obtain a credit enhancement device providing additional security for the payment of all or any portion of the amounts owing on the bonds or for the purpose of funding, in lieu of cash, all or any portion of the debt service reserve. Credit enhancement may be in the form of letter of credit, line of credit, municipal bond insurance, state bond guaranty, or other device or facility used to enhance the creditworthiness or marketability of the obligations.

C. Debt Service

1. The College shall maintain a debt service fund to account for property tax revenues levied to pay for the maturing principal and interest of general obligation bonds and to establish an adequate fund balance to meet the cash outlay requirements until property tax revenues are received.
2. The College shall maintain a debt service fund to account for revenues designated to pay indebtedness other than General Obligation bonds as appropriate to the situation.

D. Financing Proposals:

1. Financing proposals or other extensions of College credit through sale of securities, execution of loans or making of guarantees directly or indirectly, or the lending or pledging of the College credit, shall be referred to the President or designee for approval.

- E. Financial Accountability:
  - 1. The College shall establish a debt service fund to account for the revenues and other financing sources for payment of the maturing principal and interest on its outstanding obligations.
  - 2. The College shall maintain adequate funds in the debt service account to meet the cash outlay requirements for payment of maturing principal and interest until property tax revenues and revenues from other financing sources are received.
  
- F. Refunding
  - 1. The College shall periodically monitor the changes in interest rates and where feasible and beneficial, refund the existing debt in accordance with the guidelines, procedures, and policies of the Office of the State Treasurer and under Federal, State, and Local law.
  - 2. For advance refunding, a minimum of 3.00% in present value savings shall be achieved before proceeding.
  - 3. For current refunding, the College shall review on a case-by-case basis the benefits that the refunding in question would generate.
  
- G. Financial Advisors and Legal Counsel
  - 1. The College shall employ professional, technical, and legal services to ensure the most cost effective method of selling the bonds. These services may include legal services (bond counsel), financial advisory services, underwriters, and paying agents.
  
- H. Rating Agencies
  - 1. The College shall secure ratings from at least two major rating agencies on all sales of indebtedness when it is deemed to be beneficial to the College.



- I. Debt service reserves for non-voter approved obligations
  1. Indebtedness under this category may include, but is not limited to, full faith and credit obligations (FFCs), revenue bonds, limited taxable general obligation bonds, pension obligation bonds, and certain long-term lease financing.
  2. Unlike voter approved obligations where the payment for debt service is made through an annual property tax levy, the resources to pay the debt service on non-voter approved obligations come from the general operating resources or from designated funding sources of the College.
  3. As a guide, the College shall consider maintaining a debt service reserve equal to 100% of one year's debt service requirement. This is to allow the College to have more time to implement measures due to contractual obligations. The exact level will be determined on a case-by case basis by the President. Exceptions can be made if the annual debt service payment on the indebtedness is under \$250,000 or as directed by the President when such an exception is warranted.

## VI. POST ISSUANCE COMPLIANCE POLICY

The College Debt Officer shall adhere to the Policy & Procedures in connection with post-issuance requirements as follows:

- A. Arbitrage Rebate Compliance and Other Post-issuance Responsibilities:
  1. The College Debt Officer shall establish and maintain a system of record keeping and reporting to meet the arbitrage rebate compliance requirement of the federal tax code and the College compliance procedures to include:
    - a) Tracking investment earnings on bond proceeds, calculating rebate payments in compliance with the tax law, and remitting any earnings subject to rebate to the federal government in a timely manner in order to preserve the tax-exempt status of the College's outstanding tax-exempt or tax-advantaged debt issues.
    - b) Maintain appropriate accounting records of the tax-exempt and tax-advantaged bond expenditures in compliance with legal and accounting requirements and to provide those

records to the Financial Services Division on an as-needed basis.

B. Financial Disclosure:

1. The College is committed to full and complete primary and secondary financial disclosure, and to cooperating fully with rating agencies, institutional and individual investors, the College's divisions, outside agencies and other levels of government and the general public to share clear, comprehensible, and accurate financial information.
  - a) The College is committed to meeting secondary disclosure requirements on a timely and comprehensive basis.
  - b) Official statements accompanying debt issues, Annual Comprehensive Financial Reports, and continuous disclosure statements will meet (at a minimum), the standards articulated by the Government Standards Board (GASB), the National Federation of Municipal Analysts, the Securities and Exchange Commission (SEC), and Generally Accepted Accounting Principles (GAAP).
  - c) The President or designee shall be responsible for ongoing disclosure to established national information repositories and for maintaining compliance with disclosure standards promulgated by Federal and State regulatory bodies.

C. Investment of Bond Proceeds

1. Unless otherwise authorized by the Board, the College shall invest the proceeds from the sale of its bonds in accordance with its Investment Policy and Federal and State laws. Management may employ investment professionals to manage these proceeds.

# **Appendix A**

## **PCC Tax Exempt Bond Post-Issuance Compliance Policy & Procedures**

### **I. PURPOSE**

The purpose of the PCC Tax Exempt Bond Post-Issuance Compliance Policy & Procedures is to ensure that Portland Community College (the Issuer) complies with applicable requirements of federal tax law and federal securities laws that apply to any tax-exempt obligations or debt issued by the Issuer. This Policy is designed to set forth compliance procedures so that the Issuer utilizes the proceeds of all issues of bonds, certificates of participation, bond anticipation notes, and tax and revenue anticipation notes (collectively referred to as “Bonds”) in accordance with applicable federal tax requirements, and complies with applicable federal securities laws applicable to outstanding Bonds.

The procedures described in II and III herein describe the federal tax laws and only apply to Bonds to the extent that they are issued as federally tax-exempt obligations. Such procedures do not apply to Bonds issued as federally taxable obligations. To comply with applicable federal tax requirements, the Issuer must confirm that the requirements are met at the time each Bond issue is issued and throughout the term of the Bonds (until maturity or redemption). Generally, compliance should include retention of records relating to the expenditure of the proceeds of each Bond issue, the investment of the proceeds of each Bond issue, and any allocations made with respect to the use of the proceeds of each Bond issue, sufficient to establish compliance with applicable federal tax requirements, including records related to periods before the Bonds are issued (*e.g.*, in the case of reimbursement of prior expenditures) until six (6) years after the final maturity or redemption date of any issue of Bonds.

The procedures described in IV herein describe the federal securities laws and only apply to Bonds to the extent that there is a disclosure document prepared in connection with a public offering or private placement of the Bonds. For example, they do not currently apply to bank loans or other debt for which an official statement or other disclosure document is not prepared. To comply with applicable federal securities law requirements, the Issuer must comply with the anti-fraud laws at the time of issuance and must maintain continuous compliance with its continuing disclosure obligations until the final maturity or redemption of the applicable Bonds.

## II. PROCEDURES

### A. Responsible Official.

The Associate Vice President of Finance (“AVP of Finance”) will oversee bond compliance for Portland Community College. The AVP of Finance will be responsible for each of the procedures listed below, notify the current holder of that office of the responsibilities, and provide that person a copy of these procedures. Upon employee transitions, the College will advise any newly-designated Bond Compliance Officer of his/her responsibilities under these procedures and will ensure the Bond Compliance Officer understands the importance of these procedures. If employee positions are restructured or eliminated, the College will reassign responsibilities as necessary.

### B. Issuance of Bonds

*Bond Counsel.* The Issuer will retain a nationally-recognized bond counsel law firm (“Bond Counsel”) to assist the Issuer in issuing Bonds. In connection with any tax-exempt Bond issue, Bond Counsel will deliver a legal opinion which will be based in part on covenants and representations set forth in the Issuer’s Tax Certificate (or other closing documents containing the tax representation) (the “Tax Certificate”) and other certificates relating to the Bonds, including covenants and representations concerning compliance with post-issuance federal tax law requirements that must be satisfied to preserve the tax-exempt status of tax-exempt Bonds. As described more fully below, the Issuer will also consult with Bond Counsel and other legal counsel and advisors, as needed, following issuance of each Bond issue to ensure that applicable post-issuance requirements in fact are met, so that tax-exempt status of interest will be maintained for federal income tax purposes so long as any Bonds remain outstanding.

The Bond Compliance Officer and/or other designated Issuer personnel will consult with Bond Counsel and other legal counsel and advisors, as needed, throughout the Bond issuance process to identify requirements and to establish procedures necessary or appropriate so that that tax-exempt status of interest will be maintained. Those requirements and procedures shall be documented in a Tax Certificate and other certificates and/or other documents finalized at/or before issuance of the Bonds. If there is no document in the transcript titled “Tax Certificate,” the Bond Compliance Officer and/or other designated Issuer personnel will consult with Bond Counsel prior to the closing of the financing to understand which document(s) in the transcript contain the tax representations and covenants. The requirements and procedures in the Tax Certificate

shall include future compliance with applicable arbitrage rebate requirements and all other applicable post-issuance requirements of federal tax law throughout (and in some cases beyond) the term of the Bonds.

Documentation of Tax Requirements. The federal tax requirements relating to each Bond issue will be set forth in the Tax Certificate executed in connection with the Bond issue, which will be included in the closing transcript. The certifications, representations, expectations, covenants and factual statements in the Tax Certificate relate primarily to the restriction on use of the Bond-financed facilities by persons or entities other than the Issuer, changes in use of assets financed or refinanced with Bond proceeds, restrictions applicable to the investment of Bond proceeds and other moneys relating to the Bonds, arbitrage rebate requirements, and economic life of the Bond-financed assets.

Information Reporting. The Bond Compliance Officer and/or other designated Issuer personnel will assure filing of information returns on IRS Form 8038-G no later than the 15<sup>th</sup> day of the second calendar month in the calendar quarter following the calendar quarter in which an issue of Bonds is issued. The Issuer will confirm that the IRS Form 8038-G is accurate and is filed in a timely manner with respect to all Bond issues, including any required schedules and attachments. The IRS Form 8038-G filed with the IRS, together with an acknowledgement copy (if available) or IRS Notice CP152, will be included as part of the closing transcript for each Bond issue, or kept in the records related to the appropriate issue of Bonds.

C. Application of Bond Proceeds

Use of Bond Proceeds. The Bond Compliance Officer and/or other designated Issuer personnel shall:

- monitor the use of Bond proceeds and the use of the Bond-financed assets (e.g., facilities, furnishings or equipment) throughout the term of the Bonds (and in some cases beyond the term of the Bonds) to ensure compliance with covenants and restrictions set forth in the applicable Tax Certificate;
- maintain records identifying the assets or portion of assets that were financed or refinanced with proceeds of each issue of Bonds;
- consult with Bond Counsel and other legal counsel as needed in the review of any contracts or arrangements involving use of Bond-financed facilities to ensure compliance with all covenants and restrictions set forth in the applicable Tax Certificate;

- maintain records for any contracts or arrangements involving the use of Bond-financed facilities as might be necessary or appropriate to document compliance with all covenants and restrictions set forth in the applicable Tax Certificate;
- communicate as necessary and appropriate with personnel responsible for the Bond-financed assets to identify and discuss any existing or planned use of the Bond-financed assets, to ensure that those uses are consistent with all covenants and restrictions set forth in the applicable Tax Certificate.

*Timely Expenditure of Bond Proceeds.* At the time of issuance of any Bonds issued to fund original expenditures, the Issuer must reasonably expect to spend at least 85% of all proceeds expected to be used to finance such expenditures (which proceeds would exclude proceeds in a reasonably required reserve fund) within three (3) years after issuance of such Bonds.<sup>1</sup> In addition, for such Bonds, the Issuer must have incurred or expect to incur within six months after issuance original expenditures of not less than 5% of such amount of proceeds, and must expect to complete the Bond-financed project (the “Project”) and allocate Bond proceeds to costs with due diligence.<sup>2</sup> Satisfaction of these requirements allows Project-related Bond proceeds to be invested at an unrestricted yield for three (3) years.<sup>3</sup>

- 1 In the case of short-term working capital financings (*e.g.*, TRANs), the Issuer’s actual maximum cumulative cash flow deficit as of the close of the six-month period commencing on the issue date must be at least equal to 100% of the issue price of the notes (under the six-month rebate exception, excluding the reasonable working capital reserve) or 90% of the issue price of the notes (under the statutory safe harbor exception) in order for the notes to be exempt from the rebate requirements. six-month rebate exception, excluding the reasonable working capital reserve) or 90% of the issue price of the notes (under the statutory safe harbor exception) in order for the notes to be exempt from the rebate requirements.
- 2 These requirements do not apply to short-term working capital financings (*e.g.*, TRANs).
- 3 Proceeds of working capital financings (*e.g.*, TRANs) may be invested at an unrestricted yield for thirteen (13) months.

Bonds issued to refinance outstanding obligations are subject to separate expenditure requirements, which shall be outlined in the Tax Certificate relating to such Bonds. The Issuer's finance staff will monitor the appropriate capital project accounts (and, to the extent applicable, working capital expenditures and/or refunding escrow accounts) and ensure that Bond proceeds are spent within the applicable time period(s) required under federal tax law.

Capital Expenditures. In general, proceeds (including earnings on original sale proceeds) of Bonds issued to fund original expenditures, other than proceeds deposited in a reasonably required reserve fund or used to pay costs of issuance, should be spent on capital expenditures.<sup>4</sup> For this purpose, capital expenditures generally mean costs to acquire, construct, or improve property (land, buildings and equipment), or to adapt the property to a new or different use. The property financed or refinanced must have a useful life longer than one (1) year. Capital Expenditures include design and planning costs related to the Project, and include architectural, engineering, surveying, soil testing, environmental, and other similar costs incurred in the process of acquiring, constructing, improving or adapting the property. Capital Expenditures do not include operating expenses of the Project or incidental or routine repair or maintenance of the Project, even if the repair or maintenance will have a useful life longer than one (1) year.

D. Use of Bond-Financed Assets

Ownership and Use of Project. For the life of a Bond issue, the Project must be owned and operated by the Issuer (or another state or local governmental entity). At all times while the Bond issue is outstanding, no more than 10% (or \$15,000,000, if less) of the Bond proceeds for the Project may be used, directly or indirectly, in a trade or business carried on by a person other than a state or local governmental unit ("Private Use").<sup>5</sup> In addition, not more than 5% (or \$5 million, if less) of the proceeds of any Bond issue may be used, directly or indirectly, to make a loan to any person other than governmental persons. Generally, Private Use consists of any contract or other arrangement, including leases, management contracts, operating agreements, guarantee contracts, take or pay

<sup>4</sup> Proceeds of working capital financings (e.g., TRANs) need not be spent for capital expenditures.

<sup>5</sup> This 10% limitation is limited to 5% in cases in which the Private Use is either unrelated or disproportionate to the governmental use of the financed facility.

contracts, output contracts or research contracts, which provides for use by a person who is not a state or local government on a basis different than that of the general public.

The Project may be used by any person or entity, including any person or entity carrying on any trade or business, if such use constitutes “General Public Use”. General Public Use is any arrangement providing for use that is available to the general public at either no charge or on the basis of rates that are generally applicable and uniformly applied.

Management or Operating Agreements. Any management, operating or service contracts whereby a non-exempt entity is using assets financed or refinanced with Bond proceeds (such as bookstore, cafeteria or dining facility, externally-managed parking facilities, gift shops, etc.) must relate to portions of the Project that fit within the allowable private use limitations or the contracts must meet the IRS safe harbor for management contracts. Any replacements of or changes to such contracts relating to Bond-financed assets or facilities, or leases of such assets or facilities, should be reviewed by Bond Counsel. The Bond Compliance Officer shall contact Bond Counsel if there may be a lease, sale, disposition or other change in use of assets financed or refinanced with Bond proceeds.

Useful Life Limitation. The weighted average maturity of the Bond issue cannot exceed 120% of the weighted average economic life of the Bond-financed assets. In other words, the weighted average economic life of the Project must be at least 80% of the weighted average maturity of the Bond issue. Additional state law limitations may apply as well.

E. Investment Restrictions; Arbitrage Yield Calculations; Rebate

Investment Restrictions. Investment restrictions relating to Bond proceeds and other moneys relating to the Bonds are set forth in the Tax Certificate. The Issuer’s finance staff will monitor the investment of Bond proceeds to ensure compliance with applicable yield restriction rules.

Use and Control of Bond Proceeds. Unexpended Bond proceeds (including reserves) may be held directly by the Issuer or by the trustee for the Bond issue under an indenture or trust agreement. The investment of Bond proceeds shall be managed by the Issuer. The Issuer shall maintain appropriate records regarding investments and transactions involving Bond proceeds. The trustee, if appropriate, shall provide regular statements to the Issuer regarding investments and transactions involving Bond proceeds.

Arbitrage Yield Calculations. Investment earnings on Bond proceeds should be tracked and monitored to comply with applicable yield restrictions and/or rebate requirements.



Any funds of the Issuer set aside or otherwise pledged or earmarked to pay debt service on Bonds should be analyzed to assure compliance with the tax law rules on arbitrage, invested sinking funds, and pledged funds (including gifts or donations linked or earmarked to the Bond-financed assets).

Rebate. The Issuer is responsible for calculating (or causing the calculation of) rebate liability for each Bond issue, and for making any required rebate payments. Unless Bond Counsel has advised the Issuer that the Bonds are exempt from the rebate requirements described in this section, the Issuer will retain an arbitrage rebate consultant to perform rebate calculations that may be required to be made from time to time with respect to any Bond issue. The Issuer is responsible for providing the arbitrage rebate consultant with requested documents and information on a prompt basis, reviewing applicable rebate reports and other calculations and generally interacting with the arbitrage rebate consultant to ensure the timely preparation of rebate reports and payment of any rebate.

The reports and calculations provided by the arbitrage rebate consultant are intended to assure compliance with rebate requirements, which require the Issuer to make rebate payments, if any, no later than the fifth (5<sup>th</sup>) anniversary date and each fifth (5<sup>th</sup>) anniversary date thereafter through the final maturity or redemption date of a Bond issue. A final rebate payment must be made within sixty (60) days of the final maturity or redemption date of a Bond issue.

The Issuer will confer and consult with the arbitrage rebate consultant to determine whether any rebate spending exceptions may be met. Rebate spending exceptions are available for periods of 6 months, 18 months and 2 years. The Issuer will review the Tax Certificate and/or consult with the arbitrage rebate consultant or Bond Counsel for more details regarding the rebate spending exceptions.

In the case of short-term working capital financings, such as tax and revenue anticipation notes, if there is concern as to whether or not the Issuer has met its requisite maximum cumulative cash flow deficit with respect to its short-term working capital notes, the services of a rebate analyst should be engaged to determine whether either the six-month spending exception or the statutory safe harbor exception to the rebate rules is met

(in which case no rebate would be owed) or whether the proceeds of the notes are subject, in whole or in part, to rebate.

Copies of all arbitrage rebate reports, related return filings with the IRS (*i.e.*, IRS Form 8038-T), copies of canceled checks with respect to any rebate payments, and information statements must be retained as described below. The responsible official of the Issuer described in Subsection A of this Part II will follow the procedures set forth in the Tax Certificate entered into with respect to any Bond issue that relate to compliance with the rebate requirements.

The College will ensure five-year rebate reports are completed for all outstanding tax-exempt bonds issued.

F. Record Retention

Allocation of Bond Proceeds to Expenditures. The Issuer shall allocate Bond proceeds to expenditures for assets, and shall trace and keep track of the use of Bond proceeds and property financed or refinanced therewith.

Record Keeping Requirements. Copies of all relevant documents and records sufficient to support an assertion that the tax requirements relating to a Bond issue have been satisfied will be maintained by the Issuer for the term of a Bond issue (including refunding Bonds, if any) plus six (6) years, including the following documents and records:

- Bond closing transcripts;
- Copies of records of investments, investment agreements, credit enhancement transactions, financial derivatives (*e.g.*, an interest rate swap), arbitrage reports and underlying documents, including trustee statements;
- Copies of material documents relating to capital expenditures financed or refinanced by Bond proceeds, including (without limitation) purchase orders, invoices, trustee requisitions and payment records, as well as documents relating to costs reimbursed with Bond proceeds and records identifying the assets or portion of assets that are financed or refinanced with Bond proceeds;
- All contracts and arrangements involving private use, or changes in use, of the Bond-financed property;
- All reports and documents relating to the allocation of Bond proceeds and private use of Bond-financed property; and
- Itemization of property financed with Bond proceeds, including placed in service dates.

- In the case of short-term working capital financings, such as tax and revenue anticipation notes, information regarding the Issuer's revenue, expenditures and available balances sufficient to support the Issuer's maximum cumulative cash flow deficit.

### III. POST-ISSUANCE COMPLIANCE

#### A. In General

The Issuer will conduct periodic reviews of compliance with these procedures to determine whether any violations have occurred so that such violations can be remedied through the "remedial action" regulations (Treas. Reg. Section 1.141-12) or the Voluntary Closing Agreement Program (VCAP) described in IRS Notice 2008-31 (or successor guidance). If any changes or modifications to the terms or provisions of a Bond issue are contemplated, the Issuer will consult Bond Counsel. The Issuer recognizes and acknowledges that such modifications could result in a "reissuance" of the Bonds for federal tax purposes (*i.e.*, a deemed refunding) and thereby jeopardize the tax-exempt status of the Bonds after the modifications.

The Bond Compliance Officer and/or other designated Issuer personnel will consult with Bond Counsel and other legal counsel and advisors, as needed, following issuance of each issue of the Bonds to ensure that all applicable post-issuance requirements in fact are met, so that interest on the Bonds will be excluded from gross income for federal income tax purposes so long as any Bonds remain outstanding. This will include, without limitation, consultation in connection with future contracts with respect to the use of Bond-financed assets and future contracts with respect to the use of output or throughput of Bond-financed assets.

Whenever necessary or appropriate, the Issuer will engage an expert advisor as arbitrage rebate consultant to assist in the calculation of arbitrage rebate payable in respect of the investment of Bond proceeds.

#### B. Monitoring Private or Other Use of Financed Assets

The Issuer will maintain records identifying the assets or portion of assets that are financed or refinanced with proceeds of a Bond issue, including the uses and the users thereof (including terms of use and type of use). Such records may be kept in any combination of paper or electronic form. In the event the use of Bond proceeds or the assets financed or refinanced with Bond proceeds is different from the covenants, representations or factual statements in the Tax Certificate, the Issuer will promptly

contact and consult with Bond Counsel to ensure that there is no adverse effect on the tax-exempt status of the Bond issue and, where appropriate, will remedy any violations through the “remedial action” regulations (Treas. Reg. Section 1.141-12), the Voluntary Closing Agreement Program (VCAP) described in IRS Notice 2008-31 (or successor guidance), or as otherwise prescribed by Bond Counsel.

C. Ongoing Training

Training shall be made available to the Compliance Officer to support the Compliance Officer’s understanding of the tax requirements applicable to the Bonds. Such training may include, but would not be limited to, attending training sessions at local conferences such as OMFOA and/or OASBO, participation in IRS teleconferences, reading technical guidance materials provided by educational organizations, the IRS, and/or Bond Counsel, and discussing questions and issues with the Issuer’s Bond Counsel and/or arbitrage rebate consultant.

D. Annual Checklist of Tax-Exempt Bond Compliance Checklist

The Bond Compliance Officer will complete the attached “Annual Tax-Exempt Bond Compliance Checklist” with respect to all outstanding Bonds on or before March 31 of each annual period. The Bond Compliance Officer will retain a copy of each completed and signed checklist in a file that is retained in accordance with the document retention requirements described in Section II.F., above.

VII. IV. FEDERAL SECURITIES LAW PROCEDURES.

A. Anti-Fraud Provisions

Pursuant to the antifraud provisions of the Securities Act of 1933 and the Securities and Exchange Act of 1934, and accompanying regulations, applicable to securities such as the Bonds, if publicly offered, any material provided by the Issuer in connection with the offer or sale of the Bonds may not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading. This material may be in the form of an offering circular or offering memorandum for a private placement. For a publicly offered transaction, the disclosure document may be a preliminary official statement or a final official statement and any materials provided to the rating agencies or credit enhancement provider. Such material may also include information provided to a bank or institutional investor about the Issuer or the Bonds in connection with a bank loan or private placement. The antifraud provisions also apply to continuing disclosure discussed below. The Bond

Compliance Officer will actively participate in the Bond issuance process to ensure that all information regarding the Issuer described in the official statement or other materials prepared in connection with the initial sale of publicly offered Bonds does not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.

B. Continuing Disclosure

In connection with an offering of the Bonds, the Issuer will execute a Continuing Disclosure Agreement, Continuing Disclosure Undertaking, Continuing Disclosure Certificate or such similarly titled document (herein referred to as the "Continuing Disclosure Agreement"). Pursuant to the Continuing Disclosure Agreement, the Issuer may be obligated to provide annual financial disclosure to the secondary market through the Municipal Rulemaking Securities Board's Electronic Municipal Market Access ("EMMA") system, as well as notices of certain material events listed in the Continuing Disclosure Agreement. In order to maintain compliance with the Issuer's obligations in the Continuing Disclosure Agreement, the Bond Compliance Officer will, if and as required by such Continuing Disclosure Agreement:

- Assist in the preparation or review of annual reports ("Annual Reports") in the form required by the related Continuing Disclosure Agreements.
- Maintain a calendar, with appropriate reminder notifications, listing the filing due dates relating to dissemination of Annual Reports, which annual due date is generally expressed as a date within a certain number of days following the end of the Issuer's fiscal year (the "Annual Report Due Date"), as provided in the related Continuing Disclosure Agreement.
- Ensure timely dissemination of the Annual Report by the Annual Report Due Date, in the format and manner provided in the related Continuing Disclosure Agreements, which may include transmitting such filing to the Municipal Securities Rulemaking Board ("MSRB") through the Electronic Municipal Market Access ("EMMA") System at [www.emma.msrb.org](http://www.emma.msrb.org) in the format prescribed by the MSRB.
- Monitor the occurrence of any "Material Event" (as defined in the Continuing Disclosure Agreement) and timely file notice of the occurrence of any such Material Event in the manner provided under the Continuing Disclosure Agreement. To be timely filed, such notice must be transmitted within 10 days

(or such other time period as set forth in the Continuing Disclosure Agreement) of the occurrence of such Material Event.

- Ensure timely dissemination of notice of any failure to perform under a Continuing Disclosure Agreement, if and as required by the Continuing Disclosure Agreement.
- Respond to requests, or ensure that the Issuer contact responds to requests, for information under SEC Rule 15c2-12, as provided in the Continuing Disclosure Agreement.
- Monitor the performance of any dissemination agent(s) engaged by the Issuer to assist in the performance of any obligation under the Continuing Disclosure Agreement.

## Form of Annual Tax-Exempt Bond Compliance Checklist

**Bond-Issuance:** \_\_\_\_\_ **Date Completed:** \_\_\_\_\_

	Yes	No
Has there been a sale of all or any portion of a facility financed with tax-exempt bonds (a "Project")?		
Has there been a lease of all or any portion of a Project to any party other than a state or local government?		
Has the Issuer entered into a new, or amended an already existing, management or service contract related to a Project?		
Has the Issuer entered into a naming rights agreement relating to all or any portion of a Project?		
Has the Issuer entered into any other arrangement with an entity, other than a state or local government, that provided legal rights to that entity with respect to a Project?		
Will there be a rebate/yield restriction arbitrage computation date during the upcoming annual period?		
Is the Issuer out of compliance with the record retention requirements as described in Section IV of the Tax-Exempt Bond Compliance Procedures?		
Has the Issuer failed to make any required filings with EMMA as required by their Continuing Disclosure Agreements?		

If an answer to any question above is "Yes", or the answer is unclear, the Bond Compliance Officer shall consult with the Issuer's bond counsel to determine (i) if the event could adversely impact the tax-exemption of the Issuer's outstanding tax-exempt bonds and/or (ii) whether any action needs to be taken during the upcoming annual period to ensure compliance with the tax-exempt bond restrictions.

*The undersigned is the "Bond Compliance Officer" as described in the Tax-Exempt Bond Compliance Procedures and has completed the above checklist to the best of the knowledge of the undersigned.*

Signature: \_\_\_\_\_  
Associate Vice President, Finance

Date: \_\_\_\_\_

Student Life & Leadership partners with the Executive Coordinator for the PCC Board of Directors to support the success of the Student Representative position. Student Life & Leadership will provide an orientation and ongoing support in alignment with ASPCC orientation and training procedures for student leaders. Training and orientation related to membership on the PCC Board of Directors will be provided by Board staff. To support the purpose of this agreement, the Student Representative should have the opportunity to meet with Board Directors individually throughout their term of service for the purpose of mentorship.

**Terms**

The student shall serve as the Student Representative on the Board of Directors and otherwise complies with the qualifications and requirements for student representation as set forth in [Board Policy 2105](#). The Student Representative shall be accountable for compliance with all Legislative and governing policies and procedures applicable to service on the PCC Board of Directors.

Furthermore, the Student Representative will comply with [Student Rights and Responsibilities](#) and any other agreements as established for members of the ASPCC.

Violations of these terms may result in removal from the position, per the ASPCC Constitution. In the event that a student is removed, the ASPCC Senate retains the right to appoint an alternate for the duration of the term.

**Annual Review of MOU**

This MOU will be reviewed annually - in January - by the Student Representative, Student Life & Leadership Director, and the Dean of Student Life and Engagement. The ASPCC Senate and the PCC Board of Directors will be invited to provide feedback. If the review results in proposed changes, Board and Senate protocols will be followed with revisions affirmed by both parties.

**Contact Information**

Signed: \_\_\_\_\_  
Tiffani Penson, Chair  
PCC Board of Directors

Signed: \_\_\_\_\_  
Suzan Nuri, President  
ASPCC Senate

Signed: \_\_\_\_\_  
Dr. Adrien L. Bennings, President  
Office of the President

Date: \_\_\_\_\_