

**MANAGEMENT LETTER
OF THE
NEBRASKA STATE COLLEGE SYSTEM**

JULY 1, 2010 THROUGH JUNE 30, 2011

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the Auditor of Public Accounts.**

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Issued on February 28, 2012



NEBRASKA AUDITOR OF PUBLIC ACCOUNTS

Mike Foley
State Auditor

Mike.Foley@nebraska.gov
P.O. Box 98917
State Capitol, Suite 2303
Lincoln, Nebraska 68509
402-471-2111, FAX 402-471-3301
www.auditors.state.ne.us

February 27, 2012

Mr. Stanley Carpenter, Chancellor
Nebraska State College System
Board of Trustees
P.O. Box 94605
Lincoln, NE 68509-4605

Dear Mr. Carpenter:

We have audited the financial statements of the Nebraska State College System (NSCS) (a component unit of the State of Nebraska) for the year ended June 30, 2011, and have issued our report thereon dated February 27, 2012.

Our audit procedures were designed primarily to enable us to form an opinion on the Basic Financial Statements and the schedule of expenditures of Federal awards. Our audit procedures were also designed to enable us to report on compliance with requirements applicable to each major program and on internal control over compliance in accordance with OMB Circular A-133 and therefore, may not bring to light all weaknesses in policies or procedures that may exist. We aim, however, to use our knowledge of the NSCS's organization gained during our work, and we make the following comments and recommendations that we hope will be useful to you.

INTERNAL CONTROL OVER FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF FINANCIAL STATEMENTS PERFORMED IN ACCORDANCE WITH *GOVERNMENT AUDITING STANDARDS*

Internal Control Over Financial Reporting

Management of the NSCS is responsible for establishing and maintaining effective internal control over financial reporting. In planning and performing our audit, we considered the NSCS's internal control over financial reporting as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the NSCS's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the NSCS's internal control over financial reporting.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis.

Our consideration of internal control over financial reporting was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over financial reporting that might be deficiencies, significant deficiencies, or material weaknesses. We did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses, as defined above. However, we identified certain deficiencies in internal control over financial reporting that we consider to be significant deficiencies in internal control over financial reporting as described in the accompanying schedule of findings and responses as: Comment Number 1 (Undue Influence of the NSCS's Executive Management) and Comment Number 2 (NeSIS Inappropriate Access to Change Passwords). A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether the NSCS's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

COMPLIANCE WITH REQUIREMENTS THAT COULD HAVE A DIRECT AND MATERIAL EFFECT ON EACH MAJOR PROGRAM AND ON INTERNAL CONTROL OVER COMPLIANCE IN ACCORDANCE WITH OMB CIRCULAR A-133

Compliance

We have audited the NSCS's compliance with the types of compliance requirements described in the *OMB Circular A-133 Compliance Supplement* that could have a direct and material effect on each of the NSCS's major Federal programs for the year ended June 30, 2011. The NSCS's major Federal program is identified in the summary of auditors' results section of the schedule of findings and responses in our separately issued Financial Statements and Reports Required by *Government Auditing Standards* and OMB Circular A-133 for the year ended June 30, 2011.

We conducted our audit of compliance in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and OMB Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*. Those standards and OMB Circular A-133 require that we plan and perform the audit to obtain

reasonable assurance about whether noncompliance with the types of compliance requirements referred to above that could have a direct and material effect on a major Federal program occurred. An audit includes examining, on a test basis, evidence about the NSCS's compliance with those requirements and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion. Our audit does not provide a legal determination of the NSCS's compliance with those requirements.

Our opinion on the NSCS's compliance with the requirements referred to above that could have a direct and material effect on each of its major Federal programs for the year ended June 30, 2011, can be found in our separately issued Financial Statements and Reports Required by *Government Auditing Standards* and OMB Circular A-133 for the year ended June 30, 2011.

The results of our auditing procedures disclosed no instances of noncompliance with the above requirements, which are required to be reported in accordance with OMB Circular A-133.

Internal Control Over Compliance

Management of the NSCS is responsible for establishing and maintaining effective internal control over compliance with the requirements of laws, regulations, contracts, and grants applicable to Federal programs. In planning and performing our audit, we considered the NSCS's internal control over compliance with the requirements that could have a direct and material effect on a major Federal program to determine the auditing procedures for the purpose of expressing our opinion on compliance and to test and report on internal control over compliance in accordance with OMB Circular A-133, but not for the purpose of expressing an opinion on the effectiveness of internal control over compliance. Accordingly, we do not express an opinion on the effectiveness of the NSCS's internal control over compliance.

A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance with a type of compliance requirement of a Federal program on a timely basis. *A material weakness in internal control over compliance* is a deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a type of compliance requirement of a Federal program will not be prevented, or detected and corrected, on a timely basis.

Our consideration of internal control over compliance was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over compliance that might be deficiencies, significant deficiencies, or material weaknesses. We did not identify any deficiencies in internal control over compliance that we consider to be material weaknesses, as defined above. However, we identified certain deficiencies in internal control over compliance that we consider to be significant deficiencies as described in the accompanying schedule of findings and responses as Comment Number 1 (Undue Influence of the NSCS's Executive Management), Comment Number 2 (NeSIS Inappropriate Access to Change Passwords) and Comment 3 (COD Pell Payment Data Reporting). A significant deficiency in internal control over compliance is a deficiency, or a combination of deficiencies, in internal control over compliance with a type of compliance requirement of a Federal program that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Our consideration of internal controls and compliance included a review of prior year comments and recommendations. To the extent the situations which prompted the recommendations in the prior year still exist, they have been incorporated into the comments presented for the current year. All other prior year comments and recommendations have been satisfactorily resolved.

The NSCS declined two opportunities to discuss the “Undue Influence” and the “Athletic Department Procedures” comments with the Auditor of Public Accounts prior to the issuance of this report. Therefore, the cumulative effect of the NSCS’s refusal to discuss these comments, their attempt to withhold employee emails, and their refusal to answer certain questions may have resulted in the APA not obtaining a complete understanding of the problems in the CSC Athletic Department.

The NSCS’s responses to the findings identified in our audit are described in the accompanying schedule of findings and responses. We did not audit the NSCS’s responses and, accordingly, we express no opinion on the responses.

SCHEDULE OF FINDINGS AND RESPONSES

A. SIGNIFICANT DEFICIENCIES

1. Undue Influence of the NSCS’s Executive Management (State College System)

Program: Due to the cross-cutting nature of this finding all Federal Awards, including the Student Financial Aid Cluster, are impacted. - Allowability

Grant Number & Year: Due to the cross-cutting nature of this finding all Federal Awards, including the Student Financial Aid Cluster, are impacted.

Federal Grantor Agency: U.S. Department of Education

Criteria: Neb. Rev. Stat. § 84-305 (Reissue 2008) states, in part, “the Auditor of Public Accounts shall have access to all records of any public entity, in whatever form or mode the records may be, unless the auditor’s access to the records is specifically prohibited or limited by federal or state law . . .” In addition, under both the American Institute of Certified Public Accountants (AICPA) and Government Auditing (GAGAS) standards, auditors are required to plan and perform audits to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether caused by error or fraud. In order for auditors to make informed risk assessment decisions in accordance with these standards, open and unrestricted access to information is vital.

Condition:

- On October 10, 2011, during audit fieldwork, the Chancellor of the Nebraska State College System issued an email communication to **all** employees of the NSCS instructing them that if they were contacted by audit staff to provide records or respond to questions they were to immediately inform management. Additionally, all employees were informed that they were **not** required to submit to any interviews

with auditors or respond to verbal questions (see Exhibits A, B, and C below). A subsequent email was also issued to all employees of the NSCS by the Chancellor on October 14, 2011 (see Exhibits D, E, and F below). In that email the Chancellor stated, in part, “while you are not required to meet and/or speak with APA staff, you are free to do so if you so choose.” While the NSCS has asserted that it was not seeking to impede the Auditor of Public Accounts’ (APA) work, this type of restrictive communications issued by Executive Management of the State College System posed a significant, irreversible detriment to the APA’s ability to conduct a comprehensive audit of the NSCS operations.

- On December 14, 2011, the APA requested the email files of five Chadron State College (CSC) employees, as allowed under Neb. Rev. Stat. § 84-305. On December 15, 2011, the NSCS responded stating they would consider the APA request. Also on December 15, 2011, the APA responded requesting no emails be deleted or destroyed while the APA awaited the emails and mentioned NSCS Policy 5008 which states NSCS emails can be inspected. On January 10 and 11, 2012, the APA spoke with CSC staff to determine whether emails had been maintained for the period requested and CSC responded that the process of capturing emails requested started on January 5, 2012, and was completed on January 9, 2012. As a result, 25 days lapsed between the date of the APA’s initial request and the date NSCS captured the emails. On January 5, 2012, the NSCS requested a Nebraska Attorney General’s opinion on whether the NSCS was required to provide the requested emails. The Attorney General responded on January 31, 2012, that the NSCS was required to provide the emails. On February 2, 2012, the APA received the file of CSC emails that was captured on January 9, 2012.
- On January 15, 2012, a CSC employee, in response to specific APA questions regarding funds which had been under his control, declined to answer stating that the CSC Vice President of Administration and Finance had directed the employee not to answer and instead refer all APA questions to the NSCS’s Legal Counsel.
- On January 24, 2012, in response to the APA’s request for specific information regarding various funds identified and reportedly turned in to the CSC Foundation, the Vice Chancellor for Finance and Administration of the NSCS responded that “Chadron State will not provide the information requested regarding outside bank accounts of student clubs and organizations” (see Exhibit G below).

While the NSCS has asserted that it was not seeking to impede the APA’s work, its refusal to answer specific APA questions, provide requested information and/or records, and permit its Executive Management and others in positions of power with the State College System to issue restrictive communications to NSCS employees posed a significant, irreversible detriment to the APA’s ability to conduct a comprehensive audit of the NSCS operations and completely and accurately assess potential financial reporting issues.

Questioned Costs: None

Context: For the fiscal year ended June 30, 2011, the NSCS expended \$48,017,066 in total Federal awards, with the Student Financial Aid Cluster representing 96% of the total Expenditures of Federal awards. Due to the cross-cutting nature of this finding all Federal Awards, including the Student Financial Aid Cluster, are impacted.

Cause: An audit of CSC Athletics was being conducted by the APA. As the APA has no knowledge of similar issues and/or communications at any time during the prior annual audits, the APA reasonably can conclude these issues were meant to disrupt the APA's audit of CSC Athletics.

Effect: As a result of these non-cooperation directives and refusals to cooperate with the audit process, there is a significant, irreversible risk that the NSCS employees will withhold essential information from auditors or will not share information that they might otherwise have had such directives and/or refusals not occurred.

Recommendation: The actions of the NSCS's Chancellor are difficult, if not impossible, to repair due to their long-term impact on auditor-auditee communications and the overall ability of the auditor to conduct a comprehensive, full, fair, and balanced audit of the State College System with **full** auditee cooperation. As a result of restrictive communications being issued to the NSCS employees and refusal of NSCS to answer specific questions and provide requested information, irreparable harm has been done to the APA's ability to conduct such an audit of the NSCS's operations. We recommend the Chairman of the Board of Trustees openly and clearly communicate with **all NSCS employees** the importance of their complete, accurate, and unfiltered communication and participation with any APA requests for information.

Management Response: The NSCS communications are consistent with the direction provided in the Attorney General's Opinion #12001. That opinion noted that the Auditor's ability to question NSCS employees is not unlimited and further stated, "We do not believe the CSC employees are required to submit to oral interviews in the manner of depositions. Particularly under these circumstances, it would not be inappropriate for the NSCS to request that the Auditor put all questions relating to the audit in writing, with all responses from the NSCS and CSC also in writing. This will require the Auditor to pose specific questions, which the NSCS and CSC should answer as thoroughly and promptly as possible."

After reviewing the APA's recommendation, the Chair of the Board of Trustees asked that the following statement be included in this response, "The Chancellor has kept me and the entire Board informed of the issues and communication related to Chadron State athletics and the Auditor. I am very satisfied with the actions of the Chancellor."

Corrective Action Plan: The NSCS will continue to cooperate with the APA, as legally required, on matters related to the financial audit of the NSCS.

Contact: Carolyn Murphy, Vice Chancellor for Finance and Administration, Phone: 402-471-2505 (contact approved by Chair of Board of Trustees)

Anticipated Completion Date: N/A

APA Response: In a letter dated February 22, 2012, the Office of the Attorney General clarified further, upon the request of the APA, the comments referenced by the NSCS from Op. Att'y Gen. No. I-12001 (January 31, 2012). The Attorney General explained:

“ . . . we do not believe that you [the APA] are required to pose all specific questions relevant to a financial audit to the party being audited in writing. To the contrary, you may make oral inquiries of the party being audited, so long as they are proper and relevant in the context of the particular audit in process . . . ”

All questions posed by the APA to NSCS employees throughout the course of this audit were distinctly relevant to the financial audit of the NSCS. Furthermore, it is incorrect to depict the APA’s discussions with NSCS employees as “depositions,” as the NSCS has asserted. At no point in the questioning of NSCS employees were any sworn testimonies requested by the APA, nor were any such sworn testimonies given by NSCS employees.

More importantly, contrary to what the NSCS’ response attempts to indicate, the true heart of the matter is not whether any questions posed by the APA during the audit should have been in writing. Rather, the issue addressed in the recommendation was the refusal of NSCS administrators to respond at all to the APA’s questions, regardless of whether those inquiries happened to be verbal or written. Through both its actions and its communications with the APA and its own employees, the administration of the NSCS made clear its intention to oppose the audit by refusing to respond to relevant questions posed by the APA. This ongoing lack of cooperation was undertaken intentionally, despite the following pronouncement in Op. Att’y Gen. No. 02030 (Dec. 2, 2002):

“ . . . it seems to us that the Auditor can pose questions to auditees in the context of a proper financial audit. Given that authority, we also believe it likely that a court would order an agency to answer questions posed by the Auditor in the conduct of a proper financial audit, so long as those questions were pertinent to the audit.”

To ensure the NSCS’s complete and accurate financial reporting, we continue to recommend that the Chairman of the Board of Trustees convey openly and clearly to all NSCS employees the importance of their complete, accurate, and unfiltered communication and participation with any APA requests for information. Such communication is critical to the audit process because the tone set by the Board of Trustees to all of its employees plays a vital role in establishing and maintaining an ethical and accountable financial reporting environment.

NEBRASKA STATE COLLEGE SYSTEM
(A COMPONENT UNIT OF THE STATE OF NEBRASKA)

Exhibit A

From: Joni Backer [JoBacke1@wsc.edu]
t: Monday, October 10, 2011 11:06 AM
cc: carpenter, stanley h
Subject: Message from Chancellor Carpenter

Dear Colleagues:

If you are contacted by staff from the Auditor of Public Accounts Office with a request to provide records or respond to written questions, please forward the request immediately to the College's Vice President for Administration and Finance. Vice President Jean Dale will gather requested documents and coordinate written responses and information for Auditor Mike Foley and his staff in a timely, efficient and cooperative manner.

As a Wayne State College employee, you are not required to submit to an interview with the Auditor of Public Accounts or respond to verbal questions. The College and the System Office are not seeking to impede inquiries from the Auditor's Office; however, it is important that the College administration is aware of the questions to ensure that answers are accurate and complete. The College will fully cooperate to make sure information and documents are provided in a timely manner.

Thank you for your prompt attention to these directions.

Chancellor Stan Carpenter

NEBRASKA STATE COLLEGE SYSTEM
(A COMPONENT UNIT OF THE STATE OF NEBRASKA)

Exhibit B

Message from Chancellor Carpenter

Page 1 of 1

Message from Chancellor Carpenter

Linda Moody

Sent: Monday, October 10, 2011 11:46 AM

To: Linda Moody

CC: Stan Carpenter (scarpenter@nscs.edu)

In President Hanson's absence, I have been asked to forward the following message from Chancellor Carpenter.



October 10, 2011

Dear Colleagues:

The Auditor of Public Accounts will have staff on campus to conduct the College's annual audit from Tuesday, October 11 through Thursday, October 20. During that period of time, auditors may request written or electronic records and may have verbal or written questions for PSC employees. Please cooperate with all requests to the best of your ability. If you do not have information or records to satisfy any request, please forward the matter to Vice President Bruce Batterson as quickly as possible.

After October 20, if you are contacted by staff from the Auditor of Public Accounts Office with a request to provide additional records or respond to verbal or written questions, please forward the request immediately to Vice President Batterson. Vice President Batterson will gather requested documents and coordinate written responses and information for Auditor Mike Foley and his staff in a timely, efficient and cooperative manner. The College and the System Office are not seeking to impede inquiries from the Auditor's Office; however, it is important that the College administration is aware of the questions that arise after the on-campus visit has ended to ensure that answers are accurate and complete.

Thank you for your prompt attention to these directions.

Chancellor Stan Carpenter

Peru State College is an equal opportunity institution. PSC does not discriminate against any student, employee or applicant on the basis of race, color, national origin, sex, disability, religion, or age in employment and education opportunities, including but not limited to admission decisions. The College has designated an individual to coordinate the College's nondiscrimination efforts to comply with regulations implementing Title VI, VII, IX, and Section 504. Inquiries regarding nondiscrimination policies and practices may be directed to Eularia Code, Director of Human Resources, Title VI, VII, IX Compliance Coordinator, Peru State College, PO Box 10, Peru, NE 68421-0010, (402) 872-2230.

Please consider the environment before printing this email 

<https://webmail.peru.edu/owa/?ac=Item&t=IPM.Note&iid=RgAAAACmSjfBtLMvSLkpS...> 10/11/2011

NEBRASKA STATE COLLEGE SYSTEM
(A COMPONENT UNIT OF THE STATE OF NEBRASKA)

Exhibit C

From: Pamela J. Anderson
Date: Monday, October 10, 2011 10:10 AM
To: CSC Employees
Cc: scarpenter@nscs.edu
Subject: Message from Chancellor Carpenter

Dear Colleagues:

If you are contacted by staff from the Auditor of Public Accounts Office with a request to provide records or respond to written questions, please forward the request immediately to the College's Vice President for Administration and Finance. Vice President Dale Grant will gather requested documents and coordinate written responses and information for Auditor Mike Foley and his staff in a timely, efficient and cooperative manner.

As a Chadron State College employee, you are not required to submit to an interview with the Auditor of Public Accounts or respond to verbal questions. The College and the System Office are not seeking to impede inquiries from the Auditor's Office; however, it is important that the College administration is aware of the questions to ensure that answers are accurate and complete. The College will fully cooperate to make sure information and documents are provided in a timely manner.

Thank you for your prompt attention to these directions.

Chancellor Stan Carpenter

Pamela J. Anderson
Secretary to the President
Chadron State College
1000 Main Street
Chadron, NE 69337
308-432-6201
panderson@csc.edu

NEBRASKA STATE COLLEGE SYSTEM
(A COMPONENT UNIT OF THE STATE OF NEBRASKA)

Exhibit D

From: Connie Kearney [CKearney@peru.edu]
Sent: Friday, October 14, 2011 3:28 PM
To: Connie Kearney
Cc: Stan Carpenter
Subject: Message from Chancellor Carpenter



Message from the Chancellor

Colleagues:

Some questions have been raised regarding employees' interaction with the Auditor of Public Accounts (APA).

Let me be clear that while you are not required to meet and/or speak with APA staff, you are free to do so if you so choose. And, if you choose to speak with APA staff, you are free to answer any questions they might pose.

Further, if you ever have any audit concerns or become aware of fraud, do not hesitate to contact the APA anonymously at 1-800-842-8348 or visit the auditor's website at www.auditors.state.ne.us.

I trust this clarifies any misunderstanding that may have occurred from my last note to you.

Stan Carpenter
Chancellor

The Nebraska State College System adheres to equal opportunity practices. It does not discriminate on the basis of race, color, national origin, sex, disability, religion, or age in employment and education opportunities. The Nebraska State College System has designated an individual to coordinate the nondiscrimination efforts to comply with regulations implementing Title VI, VII, IX, and Section 504. Inquiries regarding nondiscrimination policies and practices may be directed to Ms. Kristin Petersen, General Counsel and Vice Chancellor for Employee Relations, NSCS, P.O. Box 94605, 1115 K Street, Suite 102, Lincoln, NE 68509-4605.

Please consider the environment before printing this email 

NEBRASKA STATE COLLEGE SYSTEM
(A COMPONENT UNIT OF THE STATE OF NEBRASKA)

Exhibit E

From: Robin Labenz [rolaben1@wsc.edu]
Sent: Friday, October 14, 2011 3:24 PM
Cc: carpenter, stanley h
Subject: Message from Chancellor Carpenter

Colleagues:

In my last note to you I indicated that you were not required to submit to an interview with the Auditor of Public Accounts (APA) staff or respond to verbal questions. Auditor Foley has indicated that there may have been some misunderstanding about this matter.

My communication to you was the result of concerns raised by some employees who were contacted and felt they had to immediately rearrange work schedules to meet with APA staff.

Let me be clear that while you are not required to meet and/or speak with APA staff, you are free to do so if you so choose. And, if you choose to speak with APA staff, you are free to answer any questions they might pose.

Further, if you ever have any audit concerns or become aware of fraud, do not hesitate to contact the APA anonymously at 1-800-842-8348 or visit the auditor's website at www.auditors.state.ne.us.

I trust this clarifies any misunderstanding that may have occurred from my last note to you.

Stan Carpenter, Chancellor

NEBRASKA STATE COLLEGE SYSTEM
(A COMPONENT UNIT OF THE STATE OF NEBRASKA)

Exhibit F

From: anderson, pamelaj
Sent: Friday, October 14, 2011 3:09 PM
To: CSC Employees
Cc: carpenter, stanley h
Subject: Message from Chancellor Carpenter

Colleagues:

In my last note to you I indicated that you were not required to submit to an interview with the Auditor of Public Accounts (APA) staff or respond to verbal questions. Auditor Foley has indicated that there may have been some misunderstanding about this matter.

My communication to you was the result of concerns raised by some employees who were contacted and felt they had to immediately rearrange work schedules to meet with APA staff.

Let me be clear that while you are not required to meet and/or speak with APA staff, you are free to do so if you so choose. And, if you choose to speak with APA staff, you are free to answer any questions they might pose.

Further, if you ever have any audit concerns or become aware of fraud, do not hesitate to contact the APA anonymously at 1-800-842-8348 or visit the auditor's website at www.auditors.state.ne.us.

I trust this clarifies any misunderstanding that may have occurred from my last note to you.

Stan Carpenter, Chancellor

NEBRASKA STATE COLLEGE SYSTEM
(A COMPONENT UNIT OF THE STATE OF NEBRASKA)

Exhibit G

Bliemeister, Tom

From: Carolyn Murphy [cmurphy@nscs.edu]
Sent: Wednesday, January 25, 2012 9:15 AM
To: Bliemeister, Tom
Cc: grant, dale e; Dunlap, Don; Steinbrecher, Sandy
Subject: Re: outside bank accounts

Good morning, Tom:

From an e-mail sent by the Chancellor to Auditor Foley on 1/6/2012:

After your last e-mail I asked the College if any other accounts had been discovered. I was informed late yesterday that after the BKD report was issued some folks came forward to disclose other accounts.

I understand you are already aware of the rodeo club account, the art guild club account and the health professions club concessions account. In addition to these student club accounts, I learned that the health professions club had an additional account for the sports medicine program and the ag club had an account as well. As I understand it, all of these accounts have now been transferred to the Foundation as custodial accounts. Each of these student clubs were authorized to have an account and the monies contained in the accounts were student funds. As I said in my e-mail to you yesterday, we are in the process of looking at all student club accounts to determine the best practices for handling such matters. As I'm sure you are aware, part of the student club experience is a learning opportunity, one that includes how to handle money, checking accounts and other financial transactions.

The clubs noted above approached the College and asked about their accounts. They were advised that they could close the accounts and have the monies handled through the Chadron State Foundation. We understand they chose to do that.

Thanks.

Carolyn

Carolyn Murphy
Vice Chancellor for Finance and Administration
Nebraska State College System
P.O. Box 94605
1115 K Street, Suite 102
Lincoln, NE 68509
(402) 471-2505
>>> "Bliemeister, Tom" <tom.bliemeister@nebraska.gov> 1/24/2012 2:28 PM >>>
Carolyn or Dale,

Did CSC Clubs, outside of the football program, close their outside bank accounts and deposit the funds with the CSC Foundation after our field work was completed on October 28, 2011?

If so, what dates were the accounts closed?

NEBRASKA STATE COLLEGE SYSTEM
(A COMPONENT UNIT OF THE STATE OF NEBRASKA)

Exhibit G

Tom Bliemeister

Tom Bliemeister
Auditor of Public Accounts
Room 2303 State Capitol
Lincoln, NE 68509
402-326-3075
Tom.Bliemeister@nebraska.gov

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NEBRASKA STATE COLLEGE SYSTEM
(A COMPONENT UNIT OF THE STATE OF NEBRASKA)

Exhibit G

Bliemeister, Tom

From: Carolyn Murphy [cmurphy@nscs.edu]
Sent: Tuesday, January 24, 2012 9:24 AM
To: Bliemeister, Tom
Cc: grant, dale e; Steinbrecher, Sandy
Subject: Re: outside bank accounts

Tom:

The NSCS position remains that student accounts are not College funds. Use of such funds are directed by the students. In accordance with Dale Grant's earlier response, Chadron State will not provide the information requested regarding outside bank accounts of student clubs and organizations. Any additional questions regarding this matter can be directed to me.

Thank you.

Carolyn

Carolyn Murphy
Vice Chancellor for Finance and Administration
Nebraska State College System
P.O. Box 94605
1115 K Street, Suite 102
Lincoln, NE 68509
(402) 471-2505
>>> "Bliemeister, Tom" <tom.bliemeister@nebraska.gov> 1/23/2012 12:13 PM >>>
Dale,

Your email on January 11, 2012, related to our request for information on the other clubs outside bank accounts, stated the following:

"The funds you are asking about are even further removed from the College's control. The club/student organization accounts are the student's funds that are not generated by the Student Activity Fee and the College has no control over these funds."

"All of the accounts you requested information on are clubs or student organizations recognized by the College. The College does not transfer, collect, or in any way provide any funds to these outside accounts, nor does the College expend any funds for these accounts. As such, they are not part of the College's audit and the student clubs and organizations are not subject to the College's audit. Consequently, we will not provide information on this matter."

Your email also referred to Board policies #6018 and #6022. Board Policy 6018 Other Trust Funds states in part, "The State Colleges are authorized to establish other sub-accounts in the Trust Fund account into which restricted funds which are provided by students or other entities for a specific purpose can be deposited and expended. Examples of other sub-accounts that are authorized by this policy include Student Event Fee and Student Publications. These distinct sub-accounts shall be used to account for each restricted fund separately from all others in the Trust Fund. If campus Student Organizations collect revenues for their specific operations and those funds are deposited into and expended from the Trust Fund in accordance with campus policies and procedures, a separate sub-account shall be established to account for those funds separately from all others in the Trust Fund.

NEBRASKA STATE COLLEGE SYSTEM
(A COMPONENT UNIT OF THE STATE OF NEBRASKA)

Exhibit G

We agree, if the funds in these outside bank accounts are not required to be deposited with the State Treasury, then the funds are not subject to the College's audit. However, our initial questions were specifically directed to determine whether the activity in these outside bank accounts were or were not related to Chadron State College based upon Attorney General's Opinion #07016, issued September 24, 2007, which opines that funds raised using State property, other assets, or employees are to be deposited with the State Treasury, unless specifically exempted by statute.

Therefore, we are attempting to determine whether all funds due to Chadron State College are collected and deposited to the proper CSC accounts and request the questions previously submitted be answered.

As we are working to complete our audit, we request a response to the questions or a written response stating you will not be responding.

Questions previously submitted.

Questions concerning the process used to determine other clubs with outside bank accounts

1. Describe the process used to determine which clubs held outside bank accounts. Provide examples of all forms or emails sent out to the clubs.
2. Provide a listing of the clubs contacted during this process. How did you determine all clubs were contacted?
3. When was this process begun? Provide support documentation for this date.
4. What instructions were sent to the clubs with outside bank accounts?

Questions for the clubs that the APA is aware had outside bank accounts (Ag Club, Rodeo Club, Art Guild, Health Professions Club, and Sports Medicine Club)

1. What was the official name of the bank account?
2. What names were on the bank account signature cards? Include titles for all individuals listed.
3. When was the bank account established?
4. When was the account closed?
5. What is the intended use of the account proceeds or donations?
6. What are the types and sources of revenues?
7. What documentation was maintained to support deposits to the account?
8. Who prepared deposits to the account?
9. Did anyone else approve the deposits?
10. Was cash collected ever withheld from deposits and spent instead? If so, how was this money spent and what documentation of the expenditure was maintained?
11. Did the Club accept checks as payments to the Club? If so, whom were the checks written to?
12. What types of expenditures were made from the account?

NEBRASKA STATE COLLEGE SYSTEM
(A COMPONENT UNIT OF THE STATE OF NEBRASKA)

Exhibit G

13. Who approved the expenditures from the account?
14. Who signed the checks from the account?
15. Were 2 signatures on the checks required?
16. What documentation was maintained to support expenditures on the account?
17. Were checks ever written to "Cash"? If so, how was this money spent and what documentation of the expenditure was maintained?
18. Complete the attached worksheet documenting the bank account activity for the last three years.
19. Provide a copy of the final check closing the account and turning the funds over to the CSC Foundation.

Please let me know if you have any further questions or concerns.

Tom Bliemeister
Auditor of Public Accounts
Room 2303 State Capitol
Lincoln, NE 68509
402-326-3075
Tom.Bliemeister@nebraska.gov

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2. **NeSIS Inappropriate Access to Change Passwords (State College System)**

Program: Student Financial Aid Cluster - Allowability

Grant Number & Year: Due to the cross-cutting nature of this finding all Student Financial Aid Cluster CFDA's open in the fiscal year ended June 30, 2011, are affected.

Federal Grantor Agency: U.S. Department of Education

Criteria: OMB Circular A-133 § 300 states, "The auditee shall...(b) Maintain internal control over Federal programs that provides reasonable assurance that the auditee is managing Federal awards in compliance with laws, regulations, and the provisions of contracts or grant agreements that could have a material effect on each of its Federal programs."

IT Governance Institute's Control Objectives for Information and Related Technology (COBIT) states, in part, control objectives over user account management include a process to "Address requesting, establishing, issuing, suspending, modifying and closing user accounts and related user privileges with a set of user account management procedures. Include an approval procedure outlining the data or system owner granting the access privileges. These procedures should apply for all users, including administrators (privileged users) and internal and external users, for normal and emergency cases. Rights and obligations relative to access to enterprise systems and information should be contractually arranged for all types of users. Perform regular management review of all accounts and related privileges."

A good internal control plan includes establishing a formal authentication process, which includes a normal process be established to change a user's password.

Condition: We noted 13 State College users with access to NeSIS had the ability to log in as any established user by bypassing the established authentication process.

Questioned Costs: None

Context: These users were not limited to accessing subordinate, student, or employee accounts. The ability did not require knowledge of another user's password, nor would the user know if their account was accessed or compromised in this manner.

Cause: Some users are using the access to log in as users for troubleshooting issues.

Effect: When users are allowed to circumvent established authentication controls, there is a decrease in accountability as one of these 13 users could log into NeSIS as someone else, and any changes made in the production environment would appear to have been performed by the actual owner of the user account.

Recommendation: We recommend the State College System remove this access. If this access is required in unique situations, we recommend it be temporarily granted only when needed. We also recommend implementing controls to immediately identify and document users who authenticate to NeSIS by bypassing established authentication processes.

Management Response: The NSCS is reviewing and removing, where appropriate, the identified individuals who have the ability to change a user's password.

Corrective Action Plan: The NSCS has initiated a change request that will allow for "checking out" a password into a user's account, based on the roles assigned to the person making the request and the roles assigned to the person whose account is being requested. These requests will be tracked.

Contact: Ed Hoffman, Vice Chancellor for Facilities, Planning and Information Technology, Phone: 402-471-2505

Anticipated Completion Date: FY12

3. **COD Pell Payment Data Reporting (Chadron)**

Program: CFDA 84.063 - Federal Pell Grant Program - Reporting

Grant Number & Year: P063P1002640, FY2011

Federal Grantor Agency: U.S. Department of Education

Criteria: The U.S. Department of Education's Common Origination and Disbursement (COD) system was implemented in April 2002 by the Office of Federal Student Aid (FSA), in part, to re-engineer the process of delivering and reporting on Federal Pell Grants into one Common Origination and Disbursement process which simplifies requesting, reporting, and reconciling of Title IV funds. Schools are required to utilize COD reporting for certain Federal programs, including the Federal Pell Grant Program. Pell origination records that COD users are required to submit to COD contain numerous key data items, including cost of attendance. Good internal control requires strict procedures be in place to ensure the College's compliance with all Title IV reporting requirements.

Condition: Cost of attendance origination data for 10 of 10 Pell grant awards tested for complete and accurate COD reporting compliance were incorrect for Chadron State College (CSC). In November 2011, after being made aware of its cost of attendance COD reporting errors by the Auditor of Public Accounts, the College corrected 2010-2011 Pell cost of attendance reporting in the COD system.

Questioned Costs: None

Context: Federal Pell Grant Program awards for the fiscal year ended June 30, 2011, totaled \$3,560,835 for CSC. No exceptions were noted related to student eligibility for

the Federal Pell Grant Program, with the context of this particular issue relating entirely to reporting of Pell Cost of Attendance to the U.S. Department of Education through the COD reporting system.

Cause: A new NeSIS/PeopleSoft system for student data was implemented on July 1, 2010, and the College failed to verify that key data items, including cost of attendance, were correctly being transferred into COD from the new NeSIS/PeopleSoft system.

Effect: When the College does not have procedures in place to ensure complete and accurate reporting of all Federal Pell Grant Program key data items, there is an increased risk that data items reported to the U.S. Department of Education will be incorrect.

Recommendation: We strongly recommend the College implement procedures to ensure the complete and accurate reporting of all Federal Pell Grant Program key data items.

Management Response: For FY11, Chadron State has corrected the COD PELL budgets manually on the COD website.

Corrective Action Plan: This issue has been reported to the NSCS's software provider. A software solution has not yet been provided, however the College is closely following the issue.

Contact: Mr. Dale Grant, Vice President for Administration and Finance, Chadron State, Phone: 308-432-6202

Anticipated Completion Date: Manual correction has been completed. The procedures will be updated as soon as a software solution is identified.

B. BASIC FINANCIAL STATEMENTS MANAGEMENT LETTER COMMENTS

4. Athletics Department Procedures and Outside Bank Accounts (Chadron State College)

Background

On September 29, 2011, Executive Management of the Nebraska State College System (NSCS) informed the Auditor of Public Accounts (APA) that, only the day before, BKD, LLP - CPAs and Advisors (BKD) had been hired to investigate possible financial issues at Chadron State College (CSC). APA staff were already onsite at CSC conducting the annual fiscal year financial audit of the Colleges since June 3, 2011. After follow-up questions, the APA learned that specific concerns had been raised regarding the propriety of William ("Bill") O'Boyle, the Head Football Coach at CSC, holding college funds in separate bank accounts outside of the direct control or oversight of either CSC or the CSC Foundation, a non-profit, tax exempt corporation that receives and administers gifts, bequests, and trusts for the benefit of CSC. According to the College's Management, this activity and information led to a National Collegiate Athletic Association (NCAA) investigation. Subsequent to this disclosure, the APA continued the financial audit and, in connection with such, investigated the outside bank accounts and related issues to try to determine how, or if, any of the outside bank accounts should be reflected in the College's financial records. In doing so, the APA interviewed the following individuals:

- Janie Park, CSC President*
- Bill O'Boyle, CSC Head Football Coach – interviewed with private attorney, Marty Connealy present
- Brad Smith, CSC Athletic Director*
- Dale Grant, CSC Vice President for Administration & Finance*
- Ed Hoffman, NSCS Vice Chancellor for Facilities, Planning, and Information Technology
- Connie Rasmussen, CSC Foundation Executive Director
- Cricket Haag, CSC Foundation Business Manager
- Chris Stein, Assistant Football Coach
- Todd Auer, Assistant Football Coach
- Tom Krepel, former CSC President
- Mike Brownfield, former CSC football player & co-founder of the Last Chance for Glory alumni fundraising golf tournaments
- Cody Beguin, former CSC football player & co-founder of the Last Chance for Glory alumni fundraising golf tournaments

*On December 7, 2011, these individuals met with the APA only on the condition that the NSCS's Legal Counsel was present.

Interviews with the above individuals, along with a review of bank and credit card statements, financial reports, and a significant amount of additional documentation provided by the NSCS, CSC, the CSC Foundation, and Bill O'Boyle's private attorneys, Crites, Shaffer, Connealy, Watson & Patras, PC, LLO provided the factual basis for the following background information and the APA's comment and recommendation.

It should be noted that our audit was greatly hindered by the decision of the NSCS's Executive Management to restrict the ability of its employees to respond to audit inquiries made by the APA. The CSC employees were directed to inform management immediately of APA requests, were informed that they were not required to submit to any interviews, and were told not to discuss the NCAA investigation. While the NSCS has asserted that it was not seeking to impede the APA's work, these types of management-issued restrictions upon communications posed a significant and irreversible detriment to the APA's ability to conduct a comprehensive audit. This lack of open and unrestricted access to information was reported above in audit finding #11-01 entitled "Undue Influence of the NSCS's Executive Management."

It should be noted also that our audit was not hindered by Bill O'Boyle, who cooperated fully with our audit and responded to all questions and document requests.

In September 2011, CSC began to investigate whether Bill O'Boyle, CSC's Head Football Coach, was holding college funds in separate bank accounts outside of the direct control or oversight of either CSC or the CSC Foundation. Of particular interest was the disposition of fundraising revenues, including proceeds from an annual golf tournament sponsored by Last Chance for Glory, an informal organization comprised of former CSC football players. CSC's investigation was largely the result of CSC Foundation concerns voiced to Janie Park, the President of CSC, about Last Chance for Glory golf tournament profits, which were to be used to

benefit the football program. Additionally, CSC administrators heard rumors that Bill O'Boyle was unofficially collecting funds to pay for replacing the grass at CSC's Robert Elliott football field with a synthetic fiber, artificial surface commonly referred to as "field turf."

On October 17, 2011, approximately one month after the initiation of CSC's investigation, Bill O'Boyle was placed on investigatory suspension. On December 16, 2011, Bill O'Boyle was informed that CSC would not be renewing his current contract, which expires on June 30, 2012. Until the expiration of that contract, Bill O'Boyle was to remain on investigatory suspension. However, on February 3, 2012, Bill O'Boyle was informed he was to report to work on February 6, 2012.

Our audit revealed that athletic funds were held in three separate bank accounts outside of the direct control or oversight of either CSC or the CSC Foundation: the "C-Club" account; the "Concession" account; and the "Special" account. The following is information related to the background of those three outside bank accounts.

"C-Club" Bank Account

On February 6, 1974, the Athletics Department and the C-Club opened a "C-Club" bank account at the First National Bank - Chadron, ostensibly for the purpose of providing letter jackets and sweaters to qualifying student athletes. Financial responsibility for the bank account was passed to successive CSC Athletic Directors over the past several decades. The following is a copy of the original signature card, apparently signed by a CSC coach and the C-Club president, documenting the 1974 opening of the "C-Club" bank account:

Account Title		SIGNATURE CARD - CHECKING	
CSC C CLUB		No. of Signatures Required	
To FIRST NATIONAL BANK, Chadron, Nebraska		ACCOUNT NO.	
<small>Items received for deposit or collection are accepted on the following terms and conditions. This Bank acts only as depositor's collecting agent and assumes no responsibility beyond its exercise of due care. All items are credited subject to final payment and receipt of proceeds of final payment in cash or cleared credit by this Bank at its own office. This Bank may forward items to correspondent and shall not be liable for default or negligence of correspondent selected with due care for items in transit, and each correspondent shall not be liable except for its own negligence. Items and their proceeds may be handled by any Federal Reserve bank in accordance with applicable Federal Reserve rules, and by this Bank or any correspondent, in accordance with any common bank usage, with any practice or procedure that a Federal Reserve bank may use or permit another bank to use or with any other lawful means. This Bank may charge back, at any time prior to midnight on its business day next following the day of receipt, any item drawn on this Bank which is determined to be drawn against insufficient funds or otherwise not good or payable. An item received after this Bank's regular afternoon closing hour shall be deemed received the next business day. I hereby agree to the by-laws, rules and regulations of the above mentioned bank, governing deposits made in its checking account with the rules of this bank. The bank is authorized to charge this account a service charge in accordance with its rules. The Bank is authorized to mail by express mail the statement and cancelled checks to address last known to bank.</small>			
Authorized Signatures	<i>[Signature]</i>	Tax I.D. No.	
Authorized Signatures	<i>[Signature]</i>	Tax I.D. No.	
Authorized Signatures		Tax I.D. No.	
Address	CSC - (C-Club)		
Date opened	2-6-74	Initial Deposit	
			Character of Account

2/6/1974
opened

(OVER)

It should be noted that our audit was unable to find evidence of a Federal tax identification number (FTIN) related to the original "C-Club" account. It appears that neither the College's FTIN or a personal FTIN was assigned to the account.

Concession sale proceeds were the primary monies deposited into this bank account and were used to purchase letter jackets and sweaters. By the 1980s, however, student athletes had lost interest in working the concession stands to earn letter jackets and sweaters. Nevertheless, the "C-Club" bank account was not closed at that time. Instead, CSC football coaches assumed responsibility for concession stand operations, and it appears the use of the proceeds shifted to funding general Athletics Department needs, such as team apparel, equipment, registrations, supplies, etc. The APA could not determine how the concession proceeds were used, because no documentation of expenditures was maintained. The "C-Club" bank account continued in active use until early 2010, at which time Bill O'Boyle opened a separate "Concession" bank account under his own name for future concession activity as he was not the authorized signatory on the 'C-Club' bank account. The original "C-Club" bank account remained open, with a balance, until September 2011. On September 22, 2011, during the course of the CSC's investigation into the disposition of fundraising monies and the outside bank accounts, Brad Smith, the current Athletic Director of CSC, as well as the sole owner and signature of the "C-Club" bank account since, at least, September 6, 1989, closed the account. The following is a copy of the most current bank account signature card documenting Brad Smith as sole owner and authorized signature on the "C-Club" bank account:

LAST
Signature
CARD
9/6/89

Ownership of Account		Type of Account	
<input type="checkbox"/> Individual	<input type="checkbox"/> Partnership	<input type="checkbox"/> Checking	<input type="checkbox"/> Certificate
<input type="checkbox"/> Joint *	<input type="checkbox"/> Corporation (For Profit)	<input type="checkbox"/> Savings	<input type="checkbox"/> Money Market
<input type="checkbox"/> Proprietorship	<input type="checkbox"/> Corporation (Not for Profit)	<input type="checkbox"/> NOW Account	<input type="checkbox"/> IRA
<input type="checkbox"/> Other		<input checked="" type="checkbox"/> Other	
<input type="checkbox"/> Trust - If in Trust:			
Beneficiary _____		Business Employer _____	
Address _____		Business Address _____	
<input type="checkbox"/> Payable on Death - If payable on death:		Business Phone _____	
Beneficiary _____			
Address _____			

*Joint Accounts - The Joint Account Customers that have signed this Agreement below acknowledge that they are the owners of this account as joint tenants with the right of Survivorship and not as tenants in common, and upon the death of any one Customer, the balance shall become property of the survivor(s). If two or more Customers presently or hereafter deposited in this account shall be the property of the Customers jointly, and upon receipt of proper order, payable to any one of the Customers. Each Customer agrees to be jointly and severally liable for any deficits in the account, regardless of which Customer created such deficit.

UNIVERSAL SIGNATURE CARD

Name CSC C-Club Initial Deposit _____

Address Brad Smith, Sponsor Date Opened _____

Phone _____ Number of Signatures Required _____

applies for an account with _____ ACCOUNT NO. _____

FIRST NATIONAL BANK, Chadron, Nebraska 69337

HEREIN REFERRED TO AS "BANK"

A. Bradley R Smith Authorized Customer Signature S.S. or I.D. No. _____

B. _____ Authorized Customer Signature S.S. or I.D. No. _____

C. _____ Authorized Customer Signature S.S. or I.D. No. _____

The above customers, whether one or more, are herein referred to as "Customer."

By signing below, Customer 1) agrees to the conditions on both sides of this card; 2) authorizes Bank to recognize the above signature(s) for transaction of business in this account, and 3) agrees under the penalty of perjury that the social security number(s) or Identification number(s) shown above is correct and that irrev are not subject to back up withholding, and 4) has received a copy of Bank's current funds availability policy.

A. _____ B. _____ C. _____

Brad Smith reported that he turned over all financial responsibilities for the “C-Club” bank account to Bill O’Boyle in 2005-2006. Brad Smith stated that he gave Bill O’Boyle “no instructions” regarding how the account was to be handled. Despite turning over physical control of the bank account’s checkbook to Bill O’Boyle, Brad Smith remained the only owner of record and only authorized signature on the bank account. As a result, until the “C-Club” account was closed in September 2011, the monthly bank statements continued to be delivered, in Brad Smith’s name, to the main office of the Athletics Department in the Armstrong Building on the CSC campus.

Although the “C-Club” bank statements were delivered in his name, Brad Smith indicated that he never actually looked at them after the bank account was turned over to Bill O’Boyle. At that time, according to Brad Smith, the statements were forwarded directly to Bill O’Boyle’s CSC mail box. Bill O’Boyle stated, however, that Brad Smith was aware, through some unspecified means, of the “C-Club” bank account’s activity, as he would question Bill O’Boyle occasionally about certain bank transactions.

Although Bill O’Boyle and other CSC football coaches were not authorized signatures on the “C-Club” bank account, First National Bank - Chadron accepted account transactions by those individuals – an issue that will be addressed in greater detail later herein. From December 8, 2004, through September 14, 2011, a total of \$55,850 was deposited into the “C-Club” bank account, and \$56,359 was paid out from it. See **Exhibit H** for a listing of the “C-Club” bank account deposits and expenditures. The balance of \$274 was turned over to the CSC Foundation after Brad Smith closed the bank account on September 22, 2011.

“Concession” Bank Account

In January 2010, Bill O’Boyle opened a separate “Concession” bank account in his own name as the owner and authorized signatory. The purpose of the new account was similar to that of the “C-Club” bank account – namely, to accept the deposit of concession revenues for later use in financing general Athletics Department needs. Bill O’Boyle stated to the APA that he opened the “Concession” account primarily due to his increasing discomfort with signing checks on a bank account for which he lacked the appropriate authorization. Moreover, Bill O’Boyle explained, because the “C-Club” bank account had been used by the CSC Athletics Department since the mid-1970’s and was in the name of Brad Smith, he did not foresee anyone at CSC having concerns about a similar account under his own name for essentially the same purpose.

The following is a copy of the original bank account agreement documenting Bill O’Boyle as the sole owner and authorized signature on the “Concession” bank account:

Account Agreement

Date: 01/25/2010

First National Bank North Platte
 201 N Dewey
 North Platte NE 69101

Internal Use
 WILLIAM J OBOYLE
 CONCESSION ACCOUNT
 936 KING
 CHADRON NE 69337

IMPORTANT ACCOUNT OPENING INFORMATION: Federal law requires us to obtain sufficient information to verify your identity. You may be asked several questions and to provide one or more forms of identification to fulfill this requirement. In some instances we may use outside sources to confirm the information. The information you provide is protected by our privacy policy and federal law.
 Enter Non-individual Owner Information on page 2. There is additional Owner/Signer information space on page 2.

The specified ownership will remain the same for all accounts.
 (For consumer accounts, select and initial.)
 Single-Party Account Multiple-Party Account
 Corporation - For Profit Corporation - Nonprofit
 Partnership Sole Proprietorship
 Limited Liability Company
 Trust-Separate Agreement Dated: _____

Name	WILLIAM J OBOYLE
Relationship	SOLE OWNER
Address	936 KING CHADRON NE 69337
Mailing Address (if different)	
Home Phone	308 430-5614
Work Phone	308 432-8781
Mobile Phone	
E-Mail	
Birth Date	
SSN/TIN	APA removed SS #
Gov't Issued Photo ID (Type, Number, State, Issue Date, Exp. Date)	
Other ID (Description, Details)	
Employer	CHADRON STATE
Previous Financial Inst.	

(Check appropriate ownership above - select and initial below.)
 Single-Party Account
 Single-Party Account with Pay-On-Death (POD)
 Multiple-Party Account with Right of Survivorship
 Multiple-Party Account with Right of Survivorship and POD
 Multiple-Party Account without Right of Survivorship

Name	
Relationship	
Address	
Mailing Address (if different)	
Home Phone	
Work Phone	
Mobile Phone	
E-Mail	
Birth Date	
SSN/TIN	
Gov't Issued Photo ID (Type, Number, State, Issue Date, Exp. Date)	
Other ID (Description, Details)	
Employer	
Previous Financial Inst.	

(Check appropriate beneficiary designation above.)
 If checked, this is a temporary account agreement.
 Number of signatures required for withdrawal: 1

The undersigned authorize the financial institution to investigate credit and employment history and obtain reports from consumer reporting agency(ies) on them as individuals. Except as otherwise provided by law or other documents, each of the undersigned is authorized to make withdrawals from the account(s), provided the required number of signatures indicated above is satisfied. The undersigned personally and as, or on behalf of, the account owner(s) agree to the terms of, and acknowledge receipt of copy(ies) of, this document and the following:
 Terms and Conditions Privacy
 Electronic Fund Transfers Truth in Savings
 Substitute Checks Funds Availability
 Common Features

Agency Designation (See Owner/Signer Information for Agency designation(s).)
 Agency designation (select and initial): Survives OR Terminates on disability or incapacity of parties.
 1 [x] ]
 WILLIAM J OBOYLE
 2 [x]]
 3 [x]] 4 [x]]

Signature Card-NE
 BankWare Systems Tel
 Wolters Kluwer Financial Services ©2003, 2008

MPMP-LAZ-NE 5/2/2007
 Initials:  Page 1 of 2

From January 25, 2010, through September 16, 2011, a total of \$30,318 was deposited into the "Concession" bank account, and \$30,100 was paid out of it. See Exhibit I for a listing of the "Concession" bank account deposits and expenditures. As of September 22, 2011, the account was closed and the balance of \$218 was put in trust with Bill O'Boyle's private attorney.

"Special" Bank Account

Bill O'Boyle had exclusive control of a third bank account opened, in his own name, in February 2009. This "Special" bank account was for the deposit of proceeds from the Last Chance for Glory football alumni golf tournaments, which had been started by a small group of former CSC football players in 2008. Loosely organized, the Last Chance for Glory alumni group is not connected to CSC or the CSC Foundation.

Following is a copy of the original bank account agreement documenting Bill O'Boyle as sole owner and authorized signature on the "Special" account:

Account Agreement Date: 02/24/2009

<p>Institution Name & Address: First National Bank North Platte 201 N Dewey North Platte NE 69101</p> <p>IMPORTANT ACCOUNT OPENING INFORMATION: Federal law requires us to obtain sufficient information to verify your identity. You may be asked several questions and to provide one or more forms of identification to fulfill this requirement. In some instances we may use outside sources to confirm the information. The information you provide is protected by our privacy policy and federal law.</p> <p>Enter Non-Individual Owner Information on page 2. There is additional Owner/Signer Information space on page 2.</p>	<p>Internal Use WILLIAM J OBOYLE SPECIAL ACCOUNT 936 KING CHADRON NE 69337</p> <p>Ownership Information The specified ownership will remain the same for all accounts. (For consumer accounts, select and initial.) <input checked="" type="checkbox"/> Single-Party Account <i>WJO</i> <input type="checkbox"/> Multiple-Party Account <input type="checkbox"/> Corporation - For Profit <input type="checkbox"/> Corporation - Nonprofit <input type="checkbox"/> Partnership <input type="checkbox"/> Sole Proprietorship <input type="checkbox"/> Limited Liability Company <input type="checkbox"/> Trust-Separate Agreement Dated: _____</p> <p>Beneficiary Designation (Check appropriate ownership above - select and initial below.) <input checked="" type="checkbox"/> Single-Party Account <i>WJO</i> <input type="checkbox"/> Single-Party Account with Pay-On-Death (POD) <input type="checkbox"/> Multiple-Party Account with Right of Survivorship <input type="checkbox"/> Multiple-Party Account with Right of Survivorship and POD <input type="checkbox"/> Multiple-Party Account without Right of Survivorship</p> <p>Beneficiary Name, Address, and SSN: (Check appropriate beneficiary designation above.)</p> <p><input type="checkbox"/> If checked, this is a temporary account agreement. Number of signatures required for withdrawal: <u>1</u></p> <p>Agency Designation The undersigned authorize the financial institution to investigate credit and employment history and obtain reports from consumer reporting agency(ies) on them as individuals. Except as otherwise provided by law or other documents, each of the undersigned is authorized to make withdrawals from the account(s), provided the required number of signatures indicated above is satisfied. The undersigned personally and as, or on behalf of, the account owner(s) agree to the terms of, and acknowledge receipt of copy(ies) of, this document and the following: <input checked="" type="checkbox"/> Terms and Conditions <input checked="" type="checkbox"/> Privacy <input checked="" type="checkbox"/> Electronic Fund Transfers <input checked="" type="checkbox"/> Truth in Savings <input checked="" type="checkbox"/> Substitute Checks <input checked="" type="checkbox"/> Funds Availability <input type="checkbox"/> Common Features <input type="checkbox"/> _____</p> <p><input type="checkbox"/> Agency Designation (See Owner/Signer Information for Agency designation(s).) Agency designation (select and initial): <input type="checkbox"/> Survives OR <input type="checkbox"/> Terminates on disability or incapacity of parties.</p> <p>1 [x <i>WILLIAM J OBOYLE</i>] 2 [x] 3 [x] 4 [x]</p>																																																								
<p>Owner/Signer Information</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td>Name</td><td>WILLIAM J OBOYLE</td></tr> <tr><td>Relationship</td><td>SOLE OWNER</td></tr> <tr><td>Address</td><td>936 KING CHADRON NE 69337</td></tr> <tr><td>Mailing Address (if different)</td><td></td></tr> <tr><td>Home Phone</td><td>308 432-4074</td></tr> <tr><td>Work Phone</td><td>308 432-6281</td></tr> <tr><td>Mobile Phone</td><td></td></tr> <tr><td>E-Mail</td><td></td></tr> <tr><td>Birth Date</td><td>APA removed SS #</td></tr> <tr><td>SSN/TIN</td><td></td></tr> <tr><td>Gov't Issued Photo ID (Type, Number, State, Issue Date, Exp. Date)</td><td></td></tr> <tr><td>Other ID (Description, Details)</td><td></td></tr> <tr><td>Employer</td><td></td></tr> <tr><td>Previous Financial Inst.</td><td></td></tr> </table>	Name	WILLIAM J OBOYLE	Relationship	SOLE OWNER	Address	936 KING CHADRON NE 69337	Mailing Address (if different)		Home Phone	308 432-4074	Work Phone	308 432-6281	Mobile Phone		E-Mail		Birth Date	APA removed SS #	SSN/TIN		Gov't Issued Photo ID (Type, Number, State, Issue Date, Exp. Date)		Other ID (Description, Details)		Employer		Previous Financial Inst.		<p>Authorized Signer Information</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td>Name</td><td></td></tr> <tr><td>Relationship</td><td></td></tr> <tr><td>Address</td><td></td></tr> <tr><td>Mailing Address (if different)</td><td></td></tr> <tr><td>Home Phone</td><td></td></tr> <tr><td>Work Phone</td><td></td></tr> <tr><td>Mobile Phone</td><td></td></tr> <tr><td>E-Mail</td><td></td></tr> <tr><td>Birth Date</td><td></td></tr> <tr><td>SSN/TIN</td><td></td></tr> <tr><td>Gov't Issued Photo ID (Type, Number, State, Issue Date, Exp. Date)</td><td></td></tr> <tr><td>Other ID (Description, Details)</td><td></td></tr> <tr><td>Employer</td><td></td></tr> <tr><td>Previous Financial Inst.</td><td></td></tr> </table>	Name		Relationship		Address		Mailing Address (if different)		Home Phone		Work Phone		Mobile Phone		E-Mail		Birth Date		SSN/TIN		Gov't Issued Photo ID (Type, Number, State, Issue Date, Exp. Date)		Other ID (Description, Details)		Employer		Previous Financial Inst.	
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MPMP-LAZ-NE 5/2/2007
 Initials: _____ Page 1 of 2

APA interviews with two of the Last Chance for Glory co-founders determined a desire on the part of the tournament founders that proceeds from the football alumni golf tournaments be given directly to Bill O'Boyle and used by him, solely at his discretion, for any football program-related needs he deemed necessary.

From February 24, 2009, through September 7, 2011, a total of \$30,024 was deposited into the "Special" bank account, and \$22,129 was paid out of it. See Exhibit J for a listing of the "Special" bank account deposits and expenditures. As of September 7, 2011, the account had ceased to be active but still had a balance of \$7,895.

O'Boyle Meeting

According to President Park, in September 2011, she and Brad Smith held a meeting with Bill O'Boyle. President Park stated that she asked Bill O'Boyle at that time whether he had any outside bank accounts, and he responded in the negative. President Park said that she followed up Bill O'Boyle's negative response to her initial question by specifically asking him if he had a "field turf" account or any other accounts containing money from the Last Chance for Glory golf tournaments. Again, according to President Park, Bill O'Boyle responded that he did not. However, when asked later about that meeting, Bill O'Boyle offered a different version of events, claiming that President Park inquired only as to the existence of a "field turf" account. To the best of the APA's knowledge, based on interviews and reviews of bank records, no such account exists.

On September 22, 2011, Brad Smith presented Bill O'Boyle with the following statement and asked him to sign it. The statement had been drafted by Kristin Petersen, NSCS Legal Counsel:

September 22, 2011

The account at 1st Nat. NIP Bank in the name of "Bill O'Boyle" is the only bank account operating outside the Chadron State Foundation that has been established for the benefit of CSC athletic programs or athletes. Effective immediately, I agree that I will not make any further deposits to or withdrawals from that account without the express written direction of President Janie Park.

I am not aware of any cash, checks, bonds, stocks, financial instruments, or other financial/monetary holding accounts for CSC athletic programs or athletes that exist outside the Chadron State Foundation, including, but not limited to, funds kept in a personal or College safes or drawers.

I am not aware of any corporate or unincorporated entity that has been established in or out of the state of Nebraska for the purpose of athletic support for Chadron State College other than the Chadron State Foundation and the Chadron College Alumni Association. * other than the above mentioned account a 1st Natl. Bank, North Platte. Acct # 22243042

I have not accepted cash, checks or any type of funds for my personal use or benefit. Acceptance in this regard includes, but is not limited to, deposits into personal bank accounts.


Bill O'Boyle


Witness- Brad Smith

Although both the "Concession" account and the "Special" account were held at First National Bank-North Platte, the vagueness of the original language in the above statement makes it unclear which of those bank accounts was being disclosed.

Brad Smith told the APA that he added the hand-written note to the above statement to clarify reference to the "Special" account into which the Last Chance for Glory golf tournament proceeds had been deposited. This additional notation was made, he claimed, prior to Bill O'Boyle's signing the statement. However, Bill O'Boyle disputes Brad Smith's assertion, maintaining that the handwritten addition was not part of the statement when he signed it.

Based upon the APA's audit, the "C-Club" account, "Concession" account, and "Special" account were the only outside bank accounts utilized by Bill O'Boyle to handle CSC funds. As a result of the APA audit, our findings follow:

- Lack of institutional control by CSC Administration greatly contributed to the issues currently being investigated in the CSC Athletics Department.
 - Minimal, if any, supporting documentation had been retained over the years to support deposits into and expenditures out of all three bank accounts in question.
 - CSC provided its employees with minimal training or coordinated education regarding the broad array of NCAA compliance issues.
 - CSC had overall weak accounting procedures in its Athletics Department.
 - Confidential information was released to individuals outside of the NSCS before the information was made public.
- **Lack of Institutional Control**

Neb. Rev. Stat. § 77-2301 (Reissue 2009) vests the State Treasurer with responsibility for depositing all monies belonging to the State. Neb. Rev. Stat. § 81-1111(1) (Reissue 2008) assigns to the Accounting Administrator, under the supervision of the Director of the Department of Administrative Services (DAS), responsibility for prescribing the system of accounts and accounting to be maintained by the State and its departments and agencies. General Policy 21 of the State Accounting Manual, issued by DAS, states "No agency shall establish any bank account for any purpose without the prior approval of the State Treasurer and the State Accounting Administrator." No other State officers or employees are authorized, statutorily or otherwise, to invest or deposit the State's funds with a bank.

Sound accounting practices require that policies and procedures be in place and effective in order to manage an entity's financial resources. A good internal control plan requires the entity to establish and maintain a system of internal controls to provide reasonable assurance that, among other things: all assets are safeguarded; all revenues are properly collected and accounted for; transactions are properly recorded; transactions are executed only with proper authorization; and detailed supporting documentation is retained to support all transactions.

NCAA Division II Constitution, Article 6, *Institutional Control*, places responsibility for the control and conduct of intercollegiate athletics on the institution and its conference. Article 6.1 of that same document, *Institutional Governance*, states, in part, "A member institution's president or chancellor has ultimate responsibility and final authority for the conduct of the intercollegiate athletics program . . ." Article 6.2, *Budgetary Control*, requires the institution's annual budget for its intercollegiate athletics program to be controlled by the institution and subject to its normal budgeting procedures. More specifically, Article 13.14.1, which pertains to the use of recruiting funds, states, in part, "A member institution shall be exclusively and entirely responsible for institutional and personal funds expended during the recruitment of prospective student-athletes."

The NCAA Division II principles on institutional control over the maintenance and expenditure of funds are further asserted in Article 20.10 of that organization's Constitution, *Membership Requirements – Philosophy Statement*, which states, in part:

“ . . . [I]nstitutional control is a fundamental principle that supports the educational mission of a Division II institution and assumes presidential involvement and commitment. All funds supporting athletics should be controlled by the institution. The emphasis for an athletics department should be to operate within an institutionally approved budget and compliance with and self enforcement of NCAA regulations is an expectation of membership . . . ”

The situation in which CSC currently finds itself embroiled appears to be due, in large part, to an overall lack of institutional control and poor decision making and/or oversight by multiple parties, including the administration of the institution itself. This conclusion is based upon the fact that, had it been observant, CSC’s administration had ample opportunity, through a wide variety of circumstances and events, to know about many of the issues currently under investigation. Given this knowledge, CSC could have dealt with and resolved these same issues in a proactive manner. The following are but some of the more glaring indicators of problems we noted during our audit:

- The “C-Club” bank account had existed for several decades outside of CSC’s accounting system, with many individuals knowing about and/or using the account throughout those years. There is no evidence that CSC administrators had ever communicated to those responsible for the “C-Club” account any specific instructions regarding the keeping of receipts or other supporting documentation for account transactions. Furthermore, with specific regard to CSC’s investigation of Bill O’Boyle, there is no evidence that anyone in the administration of CSC, whether within or outside of the Athletics Department, ever provided Bill O’Boyle with any specific instruction or guidance related to his financial management of the “C-Club” bank account, including such basic considerations as the importance of monthly reconciliation of the account’s bank statements, retention of receipts to support all expenses, dual signatures on all checks issued, etc. Brad Smith stated to the APA that CSC had no specific procedures for the review or approval of any expenditures from the “C-Club” bank account.
- As Athletic Director, Brad Smith held a key management position in the CSC Athletics Department, making him responsible for approving all CSC Foundation check requests for Donor Restricted accounts and all employee requests for travel advances and/or expense reimbursement requests. As such, Brad Smith was in a position to have known what financial activity was – or, as the case may be, was not – flowing through the CSC Foundation.
- Brad Smith reported that he had attended all four Last Chance for Glory golf tournaments, actively participating in three of them. Additionally, he approved “Work Related Requests to be Absent from Campus” forms for Bill O’Boyle to attend these same tournaments. Brad Smith also approved the use of a college vehicle – the cost of which was charged to the CSC football general operations budget – for Bill O’Boyle’s travel to the golf tournament. The following is an example of a golf tournament travel request submitted by Bill O’Boyle, which was approved by Brad Smith:



WORK RELATED REQUEST TO BE ABSENT FROM CAMPUS

Bill O'Boyle

Employee Name: Bill O'Boyle Date: 7-07

I request permission to be absent from campus for the following:

Purpose: CSC Football Golf Tournament
Location(s): Cozad, NE
Date(s)/Time(s): 7-17 8am - 7-19 10pm

I have made the following arrangements to have my duties performed during my absence: None

Budget Code(s): 601-6008-5100 Amount \$ _____
(Requires Fund) _____
Controller Signature _____ Total \$ _____

Signed *Bill O'Boyle*
Person Filing Request

Approved *Brad Smith*
Supervisor

Estimated Expenses:

Registration \$ _____
Travel _____
Meals _____
Lodging _____
Miscellaneous _____
Total \$ _____

Approved _____
Fund Controller(s)
(If not Supervisor)

Approved *Louis Weath Sr.*
Vice President

Approved _____
President
(For Out of State Travel Only)

Mode of Transportation:

okk: 7/7/09
 College Vehicle (Time of pick-up) 8am
 Private Car
 Plane
 Other (Specify) _____

Note: Request for vehicle must be routed to Vehicle Coordinator after obtaining all required signatures.

Instructions: This request should be filed at least five (5) days prior to absence. Original form will be returned to applicant indicating action taken by all concerned. To claim lunch, you must travel overnight; to claim breakfast you must leave before 6:30 a.m. and to claim the evening meal you must return after 7:00 p.m.

Distribution: Original - Person Filing Request; Canary - Fund Controller; Pink - Vice President

CSC - Rev. 9/07

As Athletic Director of CSC, Brad Smith not only had direct knowledge of the Last Chance for Glory golf tournaments but also actually participated in them. That being the case, there can be little doubt that Brad Smith realized a considerable amount of money was being raised from those tournaments. At a minimum, therefore, Brad Smith should have asked the tournament's organizers and/or Bill O'Boyle questions about the disposition of that money.

- As further evidence of the CSC Athletics Department's knowledge of the size and scope of the Last Chance for Glory golf tournaments, in July 2008 the CSC Athletics Department paid \$880 to Last Chance for Glory out of CSC's Football Camp custodial account held at the CSC Foundation. This check paid for CSC employees to play in the first Last Chance for Glory tournament held in Cozad, Nebraska in 2008.

The following is a copy of the check issued to Last Chance for Glory for CSC employee participation in the July 2008 golf tournament:

FOR SECURITY PURPOSES, THE FACE OF THIS DOCUMENT CONTAINS A COLORED BACKGROUND AND MICROPRINTING IN THE BORDER

CHADRON STATE FOUNDATION CUSTODIAL ACCOUNT 1000 MAIN STREET CHADRON, NE 69337 (308) 432-6361	FIRST NATIONAL BANK OF CHADRON P.O. BOX 1351 CHADRON, NE 69337 76-94/1041	CHECK DATE 7/21/2008	6062 CHECK NO. 6062
PAY **Eight hundred eighty and 00/100 Dollars**			CHECK AMOUNT \$**880.00
TO THE ORDER OF Last Chance for Glory			
			<i>Crocket Haag</i> AUTHORIZED SIGNATURES
SECURITY FEATURES INCLUDED. DETAILS ON BACK			
⑈006062⑈			

- The Athletics Department provided a bus, at a cost to CSC of \$208, for the July 2011 Last Chance for Glory golf tournament in Crawford, Nebraska. Brad Smith, Dale Grant, the CSC Vice President for Administration & Finance, and President Park, among others, participated in a discussion regarding potential CSC liability associated with the Last Chance for Glory organization's use of the CSC bus. Each of those individuals had sufficient information to know about the scale of the golf tournament. Moreover, the use of a CSC bus to transport tournament participants certainly created an appearance of CSC sponsorship or endorsement. The following is an email message that President Park sent to Brad Smith on June 21, 2011, giving her approval for the CSC transportation:

From: Janie Park
Sent: Tuesday, June 21, 2011 3:29 PM
To: Brad Smith
Subject: RE: Vehicle request

Brad, I trust you that the busses will be fine. If we can get the liability covered by having the forms signed you are good to go.

Janie

Dr. Janie C. Park
President
Chadron State College
jpark@csc.edu
Phone 308-432-6201
FAX 308-432-6296

- A July 15, 2011, public news article written by the Sports Information Director for CSC and published on CSC's own website, at www.csc.edu/modules/news/public_news/view/9399, announced the financial success of the July 2011 Last Chance for Glory golf tournament. This type of publicity – especially considering that it was internally generated by CSC staff – should have alerted CSC's administration and others to the amount of money raised by the golf tournaments. The following is the actual news article, as it appeared on the CSC website:

Last Chance for Glory golf tourney a success

Former Chadron State football players, current coaches, and friends of the program helped raise nearly \$16,000 for the Eagles last weekend during the fourth annual Last Chance for Glory Golf Tournament at Legend Buttes Golf Course in Crawford.

In all, over 100 golfers played in the four-person scramble in conjunction with festivities in Chadron for Fur Trade Days Weekend.

The winning team consisted of Jess Clarke of Alliance, Pat Friesen and Cody Beguin of Omaha, and Scott Kuester of Lincoln.

“This year was a huge success, thanks in large part to the tremendous corporate support from the Scottsbluff and Bayard communities, as well as donations from friends of Chadron State football,” Last Chance for Glory committee member Mike Brownfield said. “Crawford showed a lot of hospitality and I would like to thank all who participated in this year's tournament. We look forward to partnering with more sponsors next year.”

Brownfield, along with Trevor Moon, Pat Nickodemus, Joe Planansky and Beguin, began the Last Chance for Glory tournament in 2008 to help raise funds for the CSC football program. All five were four-year letterwinners for the Eagles in the last two decades and have maintained close ties to the program.

In all, the golf event has helped raise approximately \$30,000. Brownfield said the tourney averaged 75 golfers the previous three years but he was happy to see that number increased last weekend in Crawford.

“We would like to continue to grow our attendance and corporate participation because we feel that raising \$35,000 is an attainable goal in one year,” he said. “It's a great opportunity to renew friendships and meet players from different eras. We are already planning for the 2012 tournament.”

Brownfield said the Last Chance for Glory committee wants to continue to have the tournament during Fur Trade Days Weekend.

“Having the tournament over Fur Trade Days worked well,” he said. “There are a lot of additional activities for family members in the Chadron community, plus it gives former players an opportunity to visit their alma mater.”

- Last Chance for Glory organizers included a formal “thank you” advertisement in all 2011 CSC home-game football programs. Such advertisements should have made CSC Administration and others aware of the magnitude of the golf tournaments, not to mention given rise to questions regarding both the amount and the disposition of the underlying funds raised.

'Last Chance For Glory' would like to thank our kind sponsors

<ul style="list-style-type: none"> ■ 21st Century Equipment ■ Annette Frerichs - State Farm Insurance ■ Arby's (Scottsbluff) ■ B&H Construction ■ Bayard Automotive & Towing ■ Bridgeport Dental Clinic ■ Brownfield Farms ■ Bull Barn Genetics ■ Eagle Operating ■ Gerih Construction ■ GW Grinding 	<ul style="list-style-type: none"> ■ Henkel - Garst Seeds ■ Hoffs Heifers ■ Mike Haug Trucking ■ MK Seeds ■ Morgan Stanley ■ Security First Bank ■ Stonegate Insurance ■ Team Chevrolet ■ The Empire Company ■ Valley Bank and Trust ■ West Nebraska Seed and Chemical ■ Westco
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- Over the past several years, Brad Smith has approved numerous “Work Related Requests to be Absent from Campus” forms for Bill O’Boyle and his Assistant Football Coaches related to both in-state and out-of-state student athlete recruiting trips. Out-of-state travel also requires the approval of President Park. The following are but two examples of many such travel request forms:



WORK RELATED REQUEST TO BE ABSENT FROM CAMPUS

Employee Name: Bill O'Boyle Date: 1-26

I request permission to be absent from campus for the following:

Purpose: Recruiting
Location(s): NE IA, Southern WI
Date(s)/Time(s): 1-27 8am 1-30 9pm

I have made the following arrangements to have my duties performed during my absence: None

Budget Code(s): 601-6005-2100 Amount \$
(Requires Fund
Controller Signature) Total \$

Signed [Signature]
Person Filing Request

Estimated Expenses:

Registration \$
Travel
Meals
Lodging
Miscellaneous
Total \$

Approved [Signature]
Supervisor

Approved
Fund Controller(s)
(If not Supervisor)

Approved [Signature]
Vice President

Approved [Signature]
President
(For Out of State Travel Only)

Mode of Transportation:

College Vehicle (Time of pick-up) 5am
Private Car
Plane
Other (Specify)

Note: Request for vehicle must be routed to Vehicle Coordinator after obtaining all required signatures.

Instructions: This request should be filed at least five (5) days prior to absence. Original form will be returned to applicant indicating action taken by all concerned. To claim lunch, you must travel overnight; to claim breakfast you must leave before 6:30 a.m. and to claim the evening meal you must return after 7:00 p.m.

Distribution: Original - Person Filing Request; Canary - Fund Controller; Pink - Vice President

CSC - Rev. 9/07

CHADRON STATE COLLEGE

REQUEST TO BE ABSENT FROM CAMPUS (Including Field Trips and Other Related Activities)

Chadron, Nebraska

Employee Name: Bill O'Boyle Date: 2-2-09

I request permission to be absent from campus for the following:

Purpose: Recruiting - BMAC Meeting
Location(s): Central California - Colorado Springs CO
Date(s)/Time(s): 2-3 9am - 2-11 8pm

I have made the following arrangements to have my duties performed during my absence: None

Budget Code(s): 2-213-11 Amount \$
(Requires Fund
Controller Signature) Total \$

Signed [Signature]
Person Filing Request

Estimated Expenses:

Registration \$
Travel
Meals
Lodging
Miscellaneous
Total \$

Approved [Signature]
Supervisor

Approved
Fund Controller(s)
(If not Supervisor)

Approved [Signature]
Cabinet Level Officer

Approved [Signature]
President
(For Out of State Travel Only)

Mode of Transportation:

College Vehicle (Time of pick-up)
Private Car
Plane
Other (Specify)

Note: Request for vehicle must be routed to Vehicle Coordinator after obtaining all required signatures.

Instructions: This request should be filed at least five (5) days prior to absence. Original form will be returned to applicant indicating action taken by all concerned. To claim lunch, you must travel overnight; to claim breakfast you must leave before 6:30 a.m. and to claim the evening meal you must return after 7:00 p.m.

Distribution: Original - Person Filing Request; Canary - Fund Controller; Pink - Cabinet Level Officer

CSC - Rev. 8/05

Particularly as it relates to Brad Smith’s approval of the travel request forms submitted by Bill O’Boyle and the Assistant Coaches, as well as his approval of check requests to the CSC Foundation and/or employee expense reimbursements submitted to CSC, Brad Smith was in a position to have knowledge of how the cost of recruiting travel was being financed from outside bank accounts.

- The Equity in Athletics Disclosure Act requires all co-educational postsecondary institutions that receive Title IV funding (those that participate in Federal student aid programs) and have intercollegiate athletics programs to submit athletics data annually to the U.S. Department of Education. Each year, in accordance with this requirement, all three of the State Colleges provide the U.S. Department of Education with a Title IX Intercollegiate Athletics Report. That same information is presented also to the NSCS Board of Trustees, as well as included in the published Board minutes. A high-level review of the information contained in those reports, particularly as it relates to football recruiting, indicates obvious disparities. For example, CSC has the largest number of athletes; however, its reported recruiting expenditures are, in relation to the football program’s total operating expenditures, the smallest of all three State Colleges. Brad Smith stated that Bill O’Boyle’s recruiting philosophy was much different from his own – Bill O’Boyle preferring nationwide recruiting, while Brad Smith preferred regional recruiting.

In light of Bill O’Boyle’s nationwide recruiting philosophy, the reported Title IX data would, even on its surface and without further investigation, seem to indicate possible underreporting of recruiting expenditures. With the exception of percentage figures, the following information was taken directly from the NSCS Board minutes (percentage figures were calculated by the APA based upon the Board minute information):

	2008-2009 Football			
	Chadron	Wayne	Peru	Total
Number of Athletes	131	100	88	319
Total Football Operating Expenditures	\$ 219,396	\$ 123,661	\$ 66,131	\$ 409,188
Percentage of Total Operating	53.6%	30.2%	16.2%	100.0%
Football Recruiting Expenditures	\$ 5,830	\$ 25,031	\$ 4,611	\$ 35,472
Percentage of Total Recruiting	16.4%	70.6%	13.0%	100.0%
Recruiting as % of Football Operating Expenditures	2.7%	20.2%	7.0%	

	2009-2010 Football			
	<u>Chadron</u>	<u>Wayne</u>	<u>Peru</u>	<u>Total</u>
Number of Athletes	138	106	91	335
Total Football Operating Expenditures	\$ 189,004	\$ 81,529	\$ 64,231	\$ 334,764
Percentage of Total Operating	56.5%	24.4%	19.1%	100.0%
Football Recruiting Expenditures	\$ 4,149	\$ 21,806	\$ 2,783	\$ 28,738
Percentage of Total Recruiting	14.4%	75.9%	9.7%	100.0%
Recruiting as % of Football Operating Expenditures	2.2%	26.7%	4.3%	

- Every quarter, all CSC athletic programs that had CSC Foundation accounts received a financial report from the CSC Foundation. That report summarized the financial activity and any remaining balances in the accounts of each department and/or program. In order to receive CSC Foundation funds, a standard check request form was completed and signed by the Coach and/or Assistant Coach, as well as by the Athletic Director. Thus, Brad Smith was in a position to have knowledge of what financial activity was, or was not, flowing through the CSC Foundation.
- Brad Smith stated that, in approximately 2008, he informed Bill O’Boyle that the “C-Club” bank account should be closed and all future concession activity run through a CSC Foundation account. However, Bill O’Boyle claims not to recall receiving any such directive – explaining that, if it occurred at all, that instruction by Brad Smith must have been made only in passing. Regardless, the “C-Club” bank account remained open and continued to be used until early 2010, when Bill O’Boyle opened a new “Concession” bank account under his own name. Until the “C-Club” bank account was closed in September 2011, Brad Smith was its sole owner. As such, Brad Smith had the ability to access all financial information related to the account at any time and was the only person with the authority to close the account.
- According to the CSC website that lists all “student clubs and organizations,” at <http://www.csc.edu/modules/clubs/view>, there is no student organization known as the “C-Club.” This is important because, throughout the course of the APA’s audit, CSC administrators asserted that the “C-Club” bank account is similar to all other accounts belonging to student clubs and organizations and, as such, should be placed with the CSC Foundation. As noted previously, CSC football coaches took over the concession stand operations after students lost interest in working the stands to earn letter jackets or sweaters. Additionally, both of the other State Colleges, Wayne State College and Peru State College, offer concessions at their home athletic functions and account for and deposit all resulting proceeds, whether in the form of commissions or actual receipts, into the Colleges’ accounting systems.

- Dale Grant, CSC Vice President for Administration & Finance, stated that he had been aware of the “C-Club” bank account for, at least, the last five or six years. He first learned of the bank account’s existence when his office began to receive invoices billed directly to the College from the Pepsi distributor for concessions purchases. He subsequently forwarded the billings to the Athletics Department for payment through means outside the College’s financial records. Dale Grant stated further that he did not take exception to the existence of the “C-Club” bank account because he viewed it as being a student club account. This view conflicts with the fact that, as Brad Smith pointed out, the concessions operations had been taken over by CSC coaches. Moreover, student clubs at CSC are typically discouraged from having any outside bank accounts, being encouraged instead to set up accounts through the CSC Foundation. The following is a progression of emails forwarding the Pepsi billings to the Athletic Department for payment:

From: Melissa Miskimins
Sent: Friday, January 07, 2011 9:12 AM
To: Bill O'Boyle
Subject: FW: 12/31/10 Statement
Attachments: rmStmt_5025400_00.pdf

From: Kathy Stokey
Sent: Friday, January 07, 2011 8:03 AM
To: Melissa Miskimins
Subject: FW: 12/31/10 Statement

From: Dale Grant
Sent: Thursday, January 06, 2011 11:39 AM
To: Kathy Stokey
Subject: FW: 12/31/10 Statement

From: Jana Sherlock [<mailto:isherlock@linpepco.com>]
Sent: Thursday, January 06, 2011 10:36 AM
To: Dale Grant
Subject: 12/31/10 Statement

- Review of the deposits and expenditures of the “C-Club” account, the “Concession” account, and the “Special” account, as set out in Exhibits H, I, and J, indicate that a sizeable amount – in terms of both the number of transactions and the actual dollars spent – of expenditures were reportedly made from these accounts to meet general Athletics Department needs. The bank activity summaries detail purchases for, among other things, cameras, ladders, office printers, helmet decals, gunpowder for the CSC field cannon, donuts for staff film days, screen printing, and the May 2011 purchase of \$5,450 in Under-Armour gear for the football team. It is inconceivable that purchases of this nature and volume by the largest program within the Athletics Department could possibly have gone unnoticed. As the Athletics Director of CSC, Brad Smith should have been aware, by mere observation, of such property coming into a department that he bears ultimate responsibility for supervising.

We recommend that CSC establish and maintain institutional control over both the handling of funds belonging to the college and the expenditure of such funds for its athletic programs. Additionally, we recommend that CSC establish a system of sound policies and procedures that will help ensure compliance with NCAA rules. We recommend also that CSC monitor and evaluate such compliance program to ensure the adequacy of its internal controls. While CSC cannot be expected to direct the actions of every Athletics Department employee, proactive monitoring is vital to CSC's establishing sound institutional control.

NSCS's Response: Chadron State is reviewing its institutional control of funds related to the athletic department. The College has established and filled a new accountant position that is specifically focused on athletic programs. The System Office and all three Colleges are reviewing best practices related to policies and procedures.

o **Undocumented Expenditures**

Minimal, if any, documentation was retained over the years to support deposits into and expenditures paid out of any of the three outside bank accounts utilized by Bill O'Boyle, a practice consistent with procedures established by others who had previously controlled the "C-Club" account, including Brad Smith. As a result, the allowability of the underlying activity, in accordance with both NCAA rules and Nebraska State statutes, could not be determined. Of particular concern are 59 instances, totaling \$21,915, in which checks issued out of these bank accounts had either been made payable to "cash" or cash had been withheld from deposits. The following is a summary of those transactions:

Bank Account	Checks		
	Date	Amount	Payee
C-Club	3/18/2005	\$ 150	Cash
C-Club	12/15/2005	90	Cash
C-Club	11/17/2007	160	Cash
C-Club	1/25/2008	150	Cash
C-Club	7/29/2008	500	Cash
C-Club	1/12/2009	700	Cash
C-Club	2/19/2009	120	Cash
C-Club	2/27/2009	200	Cash-Chris Stein
Special	3/9/2009	700	Cash
C-Club	3/20/2009	500	N/A
C-Club	3/25/2009	150	Cash
C-Club	3/28/2009	220	Cash
C-Club	4/24/2009	125	Cash
C-Club	5/27/2009	100	N/A
Special	6/20/2009	428	Cash
C-Club	6/29/2009	100	Cash
C-Club	7/8/2009	500	Cash
Special	7/8/2009	500	Cash
C-Club	8/25/2009	40	N/A
Special	10/15/2009	100	N/A
C-Club	11/10/2009	200	Cash

Bank Account	Checks		
	Date	Amount	Payee
C-Club	11/12/2009	170	Cash
C-Club	11/17/2009	526	Cash
Special	1/8/2010	500	Cash
Special	2/24/2010	450	Cash
C-Club	2/26/2010	140	Cash
Concession	3/4/2010	550	Cash
Concession	3/19/2010	455	Cash
Concession	3/23/2010	187	Cash
Concession	3/26/2010	600	Cash
Concession	3/30/2010	936	Cash
Concession	5/6/2010	500	Cash
Concession	6/28/2010	400	Cash
Special	10/5/2010	243	Cash
Special	10/13/2010	85	Cash
Special	10/22/2010	68	Cash
Special	11/8/2010	425	Cash
Special	11/15/2010	200	Cash
Special	12/12/2010	225	Cash
Special	12/21/2010	827	Cash
Special	1/6/2011	1,380	Cash
Concession	1/20/2011	180	Cash
Concession	1/27/2011	300	Cash
Special	1/27/2011	500	Cash
Special	2/18/2011	600	Cash
Concession	2/25/2011	320	Cash
Concession	3/4/2011	500	Cash
Concession	3/15/2011	600	Cash
Concession	3/24/2011	210	Cash
Concession	5/3/2011	680	Cash
Concession	5/8/2011	250	Cash
Special	5/18/2011	700	Cash
Concession	5/18/2011	200	Cash
Special	5/27/2011	100	Cash
Special	6/16/2011	475	Cash
Special	7/14/2011	450	Cash
Special	7/29/2011	550	Cash
Special	8/4/2011	450	Cash
Special	8/27/2011	250	Cash
Total Cash		\$ 21,915	

Note: Where the payee is N/A, cash was withheld from a deposit. Total of N/As is \$740.

According to Bill O’Boyle and his attorneys, a large number of the “cash” withdrawals were related to clinic and camp coaching fees, as well as trips associated with student athlete recruiting; however, due to the lack of documentation, the APA could not verify this explanation.

Despite having no direct documentation to support the original “cash” withdrawals, Bill O’Boyle was able to provide approved “Work Related Request to be Absent from Campus” forms, along with personal credit card statements, as indirect support for some of his recruiting trip expenditures. Nevertheless, this indirect evidence, without actual supporting documentation of the original “cash” withdrawals, is insufficient for determining the overall allowability of Bill O’Boyle’s claimed withdrawals. Furthermore, it is unknown how the NCAA, the Internal Revenue Service (IRS), and/or other regulatory entities might view these undocumented transactions. Particularly in the case of the IRS, it is possible these transactions could be viewed as unreported income potentially subject to taxes, interest, and penalties.

Due to the lack of documentation to support actual expenditures of funds from the outside bank accounts, the APA is unable to determine specific instances of potential NCAA violations or noncompliance with State statutes. Based solely upon the available information, there are instances of questionable or unusual expenditures. For example, in May 2010, \$173 was paid to the Cuming County Court for a speeding ticket issued to Bill O’Boyle.

When all financial activity of a public institution is not supported by basic documentation, there is an increased risk of errors and irregularities. Furthermore, an absence of adequate supporting documentation prevents a reasonable assurance that expenditures of public funds are made in accordance with applicable laws and regulations.

We recommend that all CSC financial activity, including the expenditure of monies for the support of various programs and operations, regardless of the funding source, be completely and accurately documented. This would include retention of detailed receipts and/or other transaction-supporting records and documentation.

NSCS’s Response: Chadron State is reviewing its institutional control of funds related to the athletic department. The College has established and filled a new accountant position that is specifically focused on the athletic programs. The System Office and all three Colleges are reviewing best practices related to policies and procedures.

○ **NCAA Education/Compliance Coordination**

A discrepancy exists between the level of NCAA education and training that CSC administrators believe it regularly provides to its Athletics Department employees and the perceptions of those same employees as to the level of education and training that they are actually receiving. Brad Smith has asserted that NCAA-related issues are routinely discussed at staff meetings, particularly as such issues arise. The following is an agenda from a typical monthly Athletics Department staff meeting:

ATHLETICS STAFF MEETING

February 9, 2011

Time: 7:00am

Guest –

Administrative Assistant - Melissa Miskimins

- Budget

Sports Information - Alex Helmbrecht

Athletic Training - Don Watt

SAAC

Facilities

Old Business

New Business

Development

- New Ideas –
- Possible guests:
- Next Meeting:

The brevity of this and other staff meeting agendas makes it difficult to determine what, if any, actual NCAA education and training occurs at these gatherings. However, interviews with CSC coaches directly responsible for front-line NCAA compliance indicate the general perception that insufficient training is provided regarding the broad array of NCAA rules with which both the coaching staff and players are expected to comply. Furthermore, when asked directly if there are any regular compliance meetings with the coaches, Melissa Miskimins, CSC's Compliance Coordinator, stated "We have not had regular compliance meetings with the coaches, but that is something that we are looking into starting."

NCAA Division II Constitution, Article 2.8.1, *The Principle of Rules Compliance – Responsibility of Institution*, states, in part, "Members of an institution's staff, student-athletes, and other individuals and groups representing the institution's athletics interests, shall comply with the applicable Association rules, and the member institution shall be responsible for such compliance."

By failing to implement comprehensive education and training to ensure institutional compliance with NCAA rules, CSC risks becoming reactive, rather than proactive, with regard to such compliance. Such a reactive approach to compliance with NCAA rules often proves detrimental – giving rise to problems that demand a significant time commitment by an institution's staff, requires the retention of costly investigators and/or legal professionals, and causes irreparable damage to the institution's reputation. Proactive measures, on the other hand, including a solid program of NCAA rules education and training, can help avoid these pitfalls.

We recommend CSC review its NCAA education program and implement proactive compliance procedures by, in part, ensuring that all Athletics Department staff is provided comprehensive, up-to-date education and training regarding the NCAA rules governing intercollegiate athletics. This could be accomplished through, among other things, regular, ongoing compliance meetings with all Athletics Department personnel to discuss both NCAA requirements and responsibilities and the need for strict compliance as well as the consequences of noncompliance.

NSCS's Response: This comment does not relate to the APA's audit of the financial statements of the NSCS.

APA Response: We disagree with the NSCS's assertion that NCAA education and compliance does not relate to this financial audit. Comprehensive, up-to-date education and training is fundamental to CSC's overall achievement of institutional control. Furthermore, CSC's lack of NCAA education and compliance programs significantly contributed to the financial issues currently being investigated.

○ **Athletic Department Procedures**

Through discussions with CSC Athletics Department administrators, employees, and coaches directly responsible for concession operations and other financial activities, the APA determined the following:

- Monies collected by the Athletics Department for deposit with CSC or the CSC Foundation are not being deposited in a timely manner. For 41 deposits tested, the average lag time from date collected to date deposited was 10 days, with one deposit being made 29 days after it was collected.
- Three entities provided concessions at various CSC athletic events. They were the CSC football coaches for basketball games, the CSC Health Professions Club for football games, and the CSC track coaches for volleyball games.
- Concession receipts, expenditures, and profits were handled in various ways. The football coaches processed everything through the outside "Concession" account. The Health Professions Club processed all receipts and expenditures through the CSC Foundation and remitted the Athletics Department's share of profits to the Athletics Department for deposit into a CSC fund. The track coaches processed everything through the CSC Foundation.
- The Athletics Department received no reports on or information regarding the receipts, expenditures, or profits from the football or track coaches. As a result, the Athletics Department could not, and did not, monitor concession activity occurring on CSC property.
- Pursuant to a written agreement with the Health Professions Club (Club), the Athletics Department was to receive 40% of the annual net concession sales. When we asked to see the Club's sales reports, the Athletics Department responded that the reports were not on file; however, the Athletics Department was able to obtain the reports from the Club. According to the Club's reports the Athletics Department received its contracted 40% of the reported annual net sales for the 2008, 2009, and 2010 football seasons. Due to the lack of supporting documentation; however, neither the Athletics Department nor the APA could determine whether the reports were complete and accurate.
- Concession sales result in numerous transactions involving small amounts of cash and checks. These types of sales are very susceptible to theft. The Athletics Department had no procedures in place to control these sales transactions.
- CSC lacked procedures for determining where Athletics Department collections should be deposited. The Athletics Department collects various monies throughout the year, including concession receipts and profits, playoff proceeds, participation guarantees from other colleges, summer sports camp registration fees, and revenues from an assortment of CSC-approved fund raising events. Despite being raised through the use of CSC facilities,

equipment, and/or employees, these proceeds were not always deposited into CSC funds. Football and volleyball concession receipts, the proceeds from the 2008 football playoffs, summer sports camps receipts, and CSC-approved fundraiser receipts were all deposited with the CSC Foundation.

- The details of the 2009-2010 Title IX football recruiting expenditures reported by CSC appear to be significantly understated. Though including expenditures from both CSC and CSC Foundation accounts, the Title IX report fails to reflect the activity of the three outside bank accounts or the un-reimbursed personally funded expenditures of coaches – which, according to both Bill O’Boyle and his assistant coaches, had also been used, on occasion, to finance student-athlete recruiting.
- We observed that checks received by CSC for concessions, donations, or other items were written to many different entities, including: Chadron State College, CSC Concessions, C-Club, Bill O’Boyle, Chadron State Football, and CSC Foundation. The use of various entity names decreases CSC’s control over the asset and increases the risk of loss or theft of the asset.
- Last Chance for Glory golf tournament sponsors were never billed and, therefore, never made restitution to CSC for the costs related to using CSC’s supplies and postage for mailing information to possible participants and for usage of the CSC bus.

Good internal control requires money collected by the Athletics Department be deposited in a timely manner, cash and checks received at concession stands be controlled, and checks be written to CSC and not to other entities. Sound business practices also require procedures be in place to ensure that CSC receives and deposits all funds due to it. In addition, Attorney General’s Opinion #07016, issued September 24, 2007, opines that funds raised using State property, other assets, or employees are to be deposited with the State Treasury, unless specifically exempted by statute.

As a result of failing to implement good internal controls, there is a decreased control over the funds being collected by the Athletics Department and an increased risk of loss or theft of CSC and CSC Foundation funds.

We recommend CSC implement procedures to ensure that all funds due to it are collected and deposited in a timely manner, as well as to the proper CSC accounts.

NSCS’s Response: Chadron State is reviewing its institutional control of funds related to the athletic department. The College has established and filled a new accountant position that is specifically focused on the athletic programs. The System Office and all three Colleges are reviewing best practices related to policies and procedures.

○ **Disposition of Bank Account Funds**

As of September 7, 2011, when all bank activity ceased, the three outside bank accounts at issue had the following balances:

- “C-Club” account: \$274
- “Concession” account: \$218
- “Special” account: \$7,895

Attorney General’s Opinion #07016, issued September 24, 2007, states that “private funds” of a State agency are also subject to State accounting and budget procedures applicable to all State funds, in accordance with the accounting system prescribed and established by the Accounting Division of DAS. The “C-Club” and “Concession” bank accounts have been administered by State employees. Additionally, the signature cards for those accounts were in the name of State employees. Moreover, the intended use of the net proceeds in those accounts was to finance general Athletics Department needs. Thus, those monies clearly belong to CSC and are subject, therefore, to accounting practices and budget requirements applicable to all agencies of the State.

With regard to the “Special” account, the Last Chance for Glory co-founders have explicitly stated to the APA that it was their desire that golf proceeds be given directly to Bill O’Boyle and used by him, solely at his discretion, for any football program-related needs he deemed necessary.

Additionally, during our audit, the APA was made aware of additional CSC student clubs or organizations that may have had outside bank accounts. As discussed in the audit finding entitled “Undue Influence of the NSCS’s Executive Management,” the APA requested specific information on how the clubs or organizations generated and used their funds. On January 24, 2012, in response to the APA’s request, the Vice Chancellor for Finance and Administration of the NSCS responded that “Chadron State will not provide the information requested regarding outside bank accounts of student clubs and organizations.”

Aside from obstructing the audit, the refusal of NSCS administrators to respond to the APA’s questions regarding the existence and activity of CSC student organization bank accounts is problematic because it flies in the face of explicit directives from the Attorney General. In two separate opinions, Op. Att’y Gen. No. 02030 (December 2, 2002) and Op. Att’y Gen. No. I-12001 (January 31, 2012), the Attorney General has stated explicitly that the APA may ask questions during the course of an audit, and the audited entity must respond to those questions. In the most recent of those two opinions, Op. Att’y Gen. No. I-12001, the Attorney General answered an inquiry by the NSCS regarding the propriety of the APA asking questions during this present audit. The Attorney General stated:

“The Nebraska Statutes establishing the authority of the Auditor’s office do not mention interviews of employees during the course of an audit. However, this office has previously opined that the Auditor has the authority to ask questions of an auditee. ‘It appears to us that an agency of state government is required to respond to questions in a financial audit apart from simply providing documents to the Auditor if such questions are contemplated and authorized by the Yellow Book standards for financial audits. After reviewing those standards, we believe that they do require agencies to answer proper inquiries from the Auditor in the context of a financial audit.’ Op. Att’y Gen. No. 02030 (December 2, 2002) at 9. This opinion went on to say that a court would likely order an agency to answer questions posed by the Auditor ‘so long as those questions were pertinent to the audit.’ Id. At 11.”

Despite this clear and unambiguous pronouncement, the NSCS continues in its refusal to answer the APA's questions, which are relevant to the audit, regarding student organization bank accounts. As a result, the APA has been effectively restricted from obtaining the basic information necessary to determine whether any student club or organization funds should be subject to the State's accounting and budget procedures.

While we are aware of the additional outside bank accounts for clubs and organizations at CSC, similar accounts may exist also at WSC and PSC, as NSCS staff held a Council of Business Officers meeting to discuss this very topic.

We recommend the remaining balances of the "C-Club" and "Concession" bank accounts be promptly deposited with the State Treasurer and be accounted for in the State's accounting system. We recommend the remaining balance of the "Special" account be promptly returned to the treasurer of the Last Chance for Glory group. As the original donor, that group can then, entirely at its own discretion, decide how to dispose of the funds. For example, if the group were to decide that it still wanted the funds to support the CSC football program, it could go through the established, proper channels to accomplish that goal. In addition, we recommend CSC review the financial activity of all student clubs and organizations to ensure that any funds required by law to be accounted for in the State's accounting and budget procedures are administered accordingly.

NSCS's Response: The C-Club balance of \$274.47 and Concessions account balance of \$218.32 have been deposited with the Chadron State Foundation. The APA recommendation regarding the Last Chance for Glory remaining balance will be taken under advisement. The System Office and all three Colleges are reviewing best practices related to policies and procedures of student organizations and clubs.

APA Response: We strongly disagree with the deposit of the "C-Club" and "Concession" bank account balances to the CSC Foundation. Those accounts contain public funds, which were raised through formal CSC activities and the use of the college's facilities and resources. Additionally, both of those bank accounts have been administered and signed upon solely by State employees with each account's net proceeds used to finance general Athletics Department needs. It is our adamant determination these funds belong to CSC and, as such, are subject to State accounting practices and budget requirements.

○ **Advanced Release of Public Document to Individuals Outside of the NSCS**

On November 18, 2011, the NSCS released an Agreed-Upon Procedures Report issued by BKD, CPAs and Advisors, an independent accounting firm retained to review possible NCAA violations within the CSC football program.

In the NSCS's November 18, 2011, public announcement regarding the BKD report, Chancellor Stan Carpenter was quoted as saying, "The College has a responsibility and expectation that staff will model ethical and law-abiding behavior for our students." Chancellor Carpenter added, "The College administration must be able to trust staff to conduct themselves professionally at

all times while serving as role models and mentors.” In that same public announcement, President Park stated, “As a public institution and a member of the NCAA, the College is bound by rules which govern our financial operations and staff conduct.” President Park continued, “It is incumbent upon all College employees to comply with those rules. Any behavior that circumvents or disregards those rules places our programs and the College’s reputation at risk.”

That public announcement, which was obtained directly from the NSCS website, at www.nscs.edu/CSC%20Report.htm, is provided in full below:

NEBRASKA STATE COLLEGE SYSTEM RELEASES INDEPENDENT REPORT ON CHADRON STATE FOOTBALL PROGRAM TO STATE AGENCIES AND NCAA

Chancellor Carpenter: “The College has a responsibility and expectation that staff will model ethical and law-abiding behavior for our students.”

(Lincoln, NE) Nebraska State College System (NSCS) Chancellor Stan Carpenter announced today that the NSCS Board of Trustees has received a report from BKD, an independent accounting firm, which was retained to review possible violations that may have occurred in the Chadron State College (CSC) football program.

Last month, the CSC administration self-reported concerns to the NCAA that violations may have occurred and requested that an independent review be conducted. The BKD report was provided to the Nebraska State Patrol, the Attorney General’s Office, the State Auditor, and the Accountability and Disclosure Commission. The report was also provided to the NCAA.

According to the report, Chadron State Head Football Coach Bill O’Boyle opened private bank accounts outside the purview of the College and the Chadron State Foundation without the knowledge or consent of the College administration. Donations intended for the football program were deposited into those accounts. Subsequent expenditures from those accounts were not subject to the controls and oversight that are required by the College and Foundation. In addition, the report identifies expenditures that may constitute violations of NCAA rules. The report states that payments to “cash” totaling approximately \$22,000 do not have supporting documentation; therefore, it is not possible to determine whether the funds were used for their purported purpose or if the funds were used to benefit football program staff personally.

“As a public institution and a member of the NCAA, the College is bound by rules which govern our financial operations and staff conduct,” said Janie Park, President of Chadron State College. “It is incumbent upon all College employees to comply with those rules. Any behavior that circumvents or disregards those rules places our programs and the College’s reputation at risk,” she said.

“State law prohibits college employees from using public resources, property or funds for personal financial gain. The NSCS has policies and procedures in place to provide accountability in financial operations with that principle in mind,” Chancellor Carpenter said.

“The College administration must be able to trust staff to conduct themselves professionally at all times while serving as role models and mentors,” he said.

On November 16, 2011, two days prior to public release of the BKD report, Tom Park, the husband of President Park, apparently sent an email message regarding the CSC investigation to a community member. Based upon the contents of that message, it appears that someone within the NSCS disclosed details of the not-yet-public report to Tom Park. Below is a copy of Tom Park’s message, with Tom Park’s email address and name of receiving party redacted.

From: Tom Par **Sent:** Wed 11/16/2011 12:42 PM
To:
Cc:
Subject: Issues
Attachments:

I'm afraid you and [redacted] have attached your wagon to the wrong horse. The report from the forensic auditor is now available, and will be accessible via the NSCS web site within a few days. It paints a very different picture from the one Bill has tried to portray to his supporters as a fine and ethical man persecuted by the administration. In fact, it describes how he lied countless times to Janie about what he had done and what he knew, and when confronted with evidence, used the Rick Perry "oops" defense. It also describes at least three different categories of fraud that he committed.

Everyone should realize that there are usually two sides to every story, and just because one side is unwilling to leak information, it doesn't imply that the other side must be right. The tip off--and what everyone overlooked in the press releases--was that the state police and state auditor are also involved in the investigation. Those two entities could care less about NCAA violations.

Tom

Given the emphasis that the NSCS public announcement places upon ethics and integrity, it appears strange indeed that information contained in a highly sensitive document should be disseminated to individuals outside of the NSCS prior to its public release. Such a breach of protocol places the NSCS's image, reputation, and integrity at risk. Worse yet, the unauthorized release of information that later proves inaccurate could give rise to serious liability concerns.

We recommend the NSCS Board of Trustees review this situation and implement strong procedures to ensure the confidentiality of any official information prior to its formal release to the public. This is strongly encouraged, as the advanced release of such information to friends, family, or acquaintances of NSCS officials both creates the appearance of a conflict of interest and undermines public trust in the NSCS and its representatives.

NSCS's Response: This comment does not relate to the APA's audit of the financial statements of the NSCS.

APA Response: The November 18, 2011, release date of the BKD report as a public document was confirmed by the APA through several means, including verification to the NSCS's online public announcement, numerous online news articles regarding the NSCS's announcement, and email communications received by the APA directly from the NSCS's legal counsel.

We disagree with the NSCS's assertion that advanced release of sensitive documents to friends, family, or acquaintances of NSCS officials does not relate to this financial audit. The integrity of the process used to disseminate information is essential to complete and accurate financial reporting.

It is evident that CSC must commit and obligate itself to the basic principle of institutional control in operating its athletics program in a manner that is consistent with all applicable rules, regulations, and State statutes. In doing so, CSC administrators must become increasingly aware of what is going on around them and exhibit a strong commitment to educating CSC Administration, coaches, staff, and other individuals involved with the CSC Athletics program about their institutional responsibilities.

NEBRASKA STATE COLLEGE SYSTEM
CHADRON STATE COLLEGE
"C-CLUB" BANK ACCOUNT

EXHIBIT H

Deposits		
Date	Amount	Source
12/10/2004	\$ 275.00	cash
12/14/2004	37.75	cash
12/14/2004	57.76	cash
12/17/2004	200.00	\$50 cash; \$150 checks
12/21/2004	260.00	\$20 cash; \$240 check
1/10/2005	580.55	\$575.55 cash; \$5 check
1/21/2005	364.25	\$333 cash; \$31.25 checks
1/25/2005	2,021.95	\$1,935.45 cash; \$86.25 checks
1/28/2005	206.25	\$186.25 cash; \$20 checks
2/4/2005	617.00	\$526 cash; \$91 check
2/7/2005	895.10	\$875.10 cash; \$20 checks
2/14/2005	32.00	cash
2/14/2005	2,461.00	\$2,457 Cash; \$4 Checks
2/18/2005	192.50	\$187.50 Cash; \$5 Check
2/22/2005	43.75	check
2/22/2005	641.00	\$629.25 Cash; \$11.75 checks
2/28/2005	334.47	cash
3/16/2005	161.00	cash
3/21/2005	544.00	cash

Checks			
Date	Amount	Ck #	Payee
12/1/2004	\$ 326.00	1513	Turm's Market
12/10/2004	528.30	1515	Outlaw Printers Inc.
12/10/2004	94.78	1516	Chadron Wholesale, Inc.
1/1/2005	14.75	n/a	Misc. Debit Check Order
1/11/2005	500.01	1517	Lou's Sporting Goods
1/11/2005	674.00	1518	Pepsi Cola Bottling Co
1/19/2005	19.50	1519	Walmart
1/19/2005	92.12	1520	Turm's Market
1/19/2005	211.09	1521	Chadron Wholesale
1/25/2005	31.70	1522	Walmart
1/25/2005	199.61	1523	Chadron Wholesale Inc.
1/25/2005	1,183.00	1524	Pepsi Cola Bottling Co
1/27/2005	45.95	1525	Best Western West Hills Inn
1/27/2005	312.00	1526	The Pizza Ranch
2/1/2005	995.20	1527	Pepsi Cola Bottling Co
2/1/2005	13.80	1529	Turm's Market
2/14/2005	261.13	1530	Turm's Market
2/14/2005	229.06	1531	Chadron Wholesale Inc.
2/14/2005	1,733.00	1532	Pepsi Cola Bottling Co
2/14/2005	89.59	1533	Walmart
2/21/2005	333.50	1534	Pepsi Cola Bottling Co
2/22/2005	100.00	1535	Name withheld
2/28/2005	608.00	1536	The Pizza Ranch
2/28/2005	143.22	1537	Walmart
3/2/2005	268.00	1538	Pepsi Cola Bottling Co
3/2/2005	166.42	1539	Chadron Wholesale Inc.
3/3/2005	99.90	1540	Best Western West Hills Inn
3/9/2005	44.95	1541	Mike Lowry Sports
3/16/2005	161.01	1542	Lou's Sporting Goods
3/18/2005	150.00	1543	Cash
4/6/2005	103.50	1545	Cleo's Flower Box
4/7/2005	117.78	1546	Walmart

NEBRASKA STATE COLLEGE SYSTEM
CHADRON STATE COLLEGE
"C-CLUB" BANK ACCOUNT

EXHIBIT H

Deposits		
Date	Amount	Source
6/14/2006	713.50	cash
6/14/2006	4,090.00	\$3,895 cash; \$195 checks
12/22/2006	1,011.51	\$758.26 cash; \$253.25 checks
1/26/2007	2,463.00	cash
1/31/2007	2,042.20	\$1,671.20 cash; \$371 checks
2/23/2007	1,269.12	\$1,263.00 cash; \$6.12 check
3/23/2007	1,661.00	\$1,615 cash; \$46 checks
3/28/2007	196.17	unidentified
9/26/2007	250.00	cash
11/6/2007	250.00	cash
11/16/2007	825.00	\$500 cash; \$325 checks
11/23/2007	100.00	cash
12/21/2007	50.00	cash
1/25/2008	2,624.90	\$2,601.15 cash; \$23.75 check
2/11/2008	2,168.00	\$1,793.00 cash; \$375 checks
3/12/2008	965.23	\$955 cash; \$10.23 check
3/20/2008	1,258.00	\$994 cash; \$264 checks

Checks			
Date	Amount	Ck #	Payee
6/14/2006	1,132.50	1589	Outlaw Printers Inc.
6/16/2006	3,678.75	1590	Lou's Sporting Goods
2/1/2007	573.00	1591	Pizza Ranch
2/1/2007	206.86	1592	Awards Unlimited
2/10/2007	120.00	1593	Safeway
2/12/2007	3,037.50	1594	Pepsi-Cola of Alliance
2/23/2007	1,312.50	1595	CSC Conferencing
2/23/2007	1,226.41	1596	Chadron Wholesale
3/1/2007	15.00	1597	Gilman Gear
3/16/2007	160.00	1598	Safeway
3/26/2007	309.75	1599	Super 8 Motel
3/28/2007	288.61	1600	Lou's Sporting Goods
5/8/2007	70.00	1601	Bob Wylie
5/8/2007	102.29	1602	Chadron Wholesale
5/8/2007	69.51	1603	Pro Tuff Decals
6/1/2007	70.00	1604	Todd Auer
6/1/2007	70.00	1605	Name withheld
7/27/2007	296.79	1606	REX
9/3/2007	70.00	1607	Name withheld
9/28/2007	159.00	1608	Chadron State Athletics
11/6/2007	150.00	1609	Name withheld
11/17/2007	160.00	1610	Cash
12/21/2007	355.14	1611	Chadron Wholesale
12/21/2007	128.40	1613	Outlaw Printers
1/16/2008	190.70	1614	Awards Unlimited
1/25/2008	150.00	1615	Cash
2/8/2008	154.32	1616	Chadron Wholesale
2/8/2008	2,271.00	1617	Pepsi-Cola of Alliance
2/21/2008	199.97	1618	WalMart
3/13/2008	97.77	1619	Chadron Wholesale
3/14/2008	104.00	1620	Donald's Drive In
3/14/2008	150.00	1621	Chris Stein
3/17/2008	184.96	1622	Name withheld
3/27/2008	150.00	1623	Jas Bains
4/1/2008	96.11	1624	Name withheld
4/10/2008	150.00	1625	Name withheld

NEBRASKA STATE COLLEGE SYSTEM
CHADRON STATE COLLEGE
"CONCESSION" BANK ACCOUNT

EXHIBIT I

Deposits		
Date	Amount	Source

Checks			
Date	Amount	CK #	Payee
4/16/2011	100.00	1111	Chris Stein
5/3/2011	4,584.31	1112	The Graphic Edge
5/3/2011	866.13	1113	Graphic Edge
5/3/2011	117.95	1114	Balfour Company
5/3/2011	680.00	1115	Cash
5/8/2011	250.00	1116	Cash
5/18/2011	82.50	1117	Common Cents
5/18/2011	200.00	1118	Cash

Total
 Deposits **\$ 30,318.54**

Total Checks **\$ 30,100.22**

Beginning Balance at 1/24/2010
 Deposits
 Checks
 Ending Balance at 9/7/2011

\$ -
 \$ 30,318.54
 (30,100.22)
 \$ 218.32

Source: "Concession" account bank statements, deposit slip, and cancelled checks.

Note: Payee "Name withheld" indicates payment was to a Graduate Assistant Coach, student athlete, or it was uncertain whether the payee was a student athlete. Student names were not included in order to comply with Federal regulations.

NEBRASKA STATE COLLEGE SYSTEM
CHADRON STATE COLLEGE
"SPECIAL" BANK ACCOUNT

EXHIBIT J

Deposits		
Date	Amount	Source
2/24/2009	\$ 4,785.00	Last Chance for Glory
3/23/2009	25.83	check
10/15/2009	900.00	\$1,000 check, donor with <i>\$100 cash back</i>
12/9/2009	500.00	check, donor
1/25/2010	4,500.00	Last Chance for Glory
8/31/2010	6,263.03	\$530 cash, unknown; \$5,733.03 Last Chance for Glory; \$100 donor

Checks			
Date	Amount	CK #	Payee
not dated	\$ 6.82	1061	Arbys
3/9/2009	700.00	9999	Cash
3/12/2009	19.01	1062	unreadable
4/29/2009	500.00	1063	Bill O'Boyle
6/20/2009	428.00	1064	Cash
7/8/2009	500.00	1065	Cash
8/10/2009	55.00	1066	Chadron Municipal Pool
8/13/2009	75.00	1067	Chadron Municipal Pool
8/18/2009	79.54	1068	WalMart-Chadron
10/15/2009	25.00	1069	Peterson Locksmith
10/15/2009	83.21	1070	Safeway
10/23/2009	35.52	1072	WalMart-Chadron
10/27/2009	45.00	1071	120 Bar
10/27/2009	70.00	1073	120 Bar
10/30/2009	17.43	1074	unreadable
10/30/2009	43.63	1122	WalMart-Chadron
11/4/2009	22.01	1075	Daylight Donuts
11/13/2009	400.00	1076	Jim O'Boyle
11/28/2009	300.00	n/a	Funds Transfer Debit
12/1/2009	57.32	1077	Big Bats gas station
12/5/2009	98.55	1078	Lariat
12/14/2009	400.00	1079	Safeway
1/8/2010	500.00	1087	Cash
1/25/2010	600.00	1080	Name withheld
1/27/2010	65.30	1081	Safeway
2/18/2010	837.00	1082	William O'Boyle
2/24/2010	450.00	1084	Cash
3/5/2010	500.00	1124	Todd Auer Clerk of Cuming County
5/3/2010	173.00	1085	Court
6/15/2010	17.76	1125	WalMart-Chadron
8/4/2010	350.00	1083	Name withheld
8/9/2010	107.94	1086	TJ's
8/11/2010	159.09	1088	Chris Stein
8/25/2010	20.85	1001	Daylight Donuts
8/30/2010	40.00	1002	CSC
9/27/2010	742.00	1089	Susan O'Boyle
9/29/2010	23.20	1090	Daylight Donuts
10/5/2010	243.00	1003	Cash
10/6/2010	25.22	1004	Daylight Donuts
10/7/2010	55.44	1005	120 Bar

NEBRASKA STATE COLLEGE SYSTEM
CHADRON STATE COLLEGE
"SPECIAL" BANK ACCOUNT

EXHIBIT J

Deposits		
Date	Amount	Source

Checks			
Date	Amount	CK #	Payee
8/4/2011	450.00	1042	Cash
8/20/2011	320.00	1040	Tony Case
8/23/2011	43.52	1045	Daylight Donuts
8/25/2011	19.24	1039	Daylight Donuts
8/27/2011	250.00	1043	Cash
8/29/2011	24.04	1044	Daylight Donuts
9/6/2011	2,400.00	1046	Name withheld
9/6/2011	24.04	1047	Daylight Donuts
9/7/2011	27.98	1048	Daylight Donuts
9/7/2011	225.00	1050	Carl Dahling

Total Deposits **\$ 30,023.71**

Total Checks **\$ 22,128.63**

Beginning Balance at 2/23/2009

\$ -

Deposits

\$ 30,023.71

Checks

(22,128.63)

Ending Balance at 9/7/2011

\$ 7,895.08

Source: "Special" account bank statements, deposit slips, and cancelled checks.

Note: Payee "Name withheld" indicates payment was to a Graduate Assistant Coach, student athlete, or it was uncertain whether the payee was a student athlete. Student names were not included in order to comply with Federal regulations.

Cash Back \$ **100.00** (Red Item Above) This is the total Cash noted on deposit slips as cash back to depositor, resulting in no deposit and no trail of its use.

5. Payroll Vendor Payments (State College System)

Since 2003, the State of Nebraska (State) has utilized EnterpriseOne accounting software to record all of its official financial records in one centralized system. However, for more than a decade, the University of Nebraska (University) has relied upon its own separate software, Systems Applications and Products (SAP), for accounting purposes. As both “a cost-savings and efficiency directive” from Governor Dave Heineman, the NSCS moved its existing business systems from EnterpriseOne to the University’s SAP system in mid-2009.

Payroll vendor payments are set up differently in the SAP system implemented by both the University and the NSCS than in EnterpriseOne. Payments made to vendors through the State’s payroll process are recorded as vendor payments in EnterpriseOne. However, instead of generating vendor payments through SAP or EnterpriseOne during the payroll process, the University, on behalf of the NSCS, sends payroll payment instructions directly to the State’s bank, authorizing the automatic deposit of payments to the vendors’ banks. As a result, a vendor payment entry is not created in either accounting system; rather, a mere journal entry is made to record such payments. Because neither accounting system records vendor payments by the NSCS to health insurance vendors, such as Blue Cross Blue Shield of Nebraska (BCBSNE), the total amounts paid to these vendors cannot be determined or identified by general users of the two systems.

The following amounts were paid through the payroll process by the NSCS between July 1, 2010, and June 30, 2011:

Vendor	State Colleges
Payment for Health and Dental Insurance*	\$ 8,273,665
TIAA/CREF (retirement)	\$ 6,505,189
All other Payments	\$ 1,028,367
Total	\$ 15,807,221

**Payments made on behalf of NSCS’ fully insured employee health insurance plan go directly to its health insurance carrier, BCBSNE. Other vendors paid through this method include college/University foundations, the United Way, vision and life insurance vendors, union payments, etc.*

After discussions with NSCS representatives, the APA obtained this payroll process information from the University, which provides the NSCS payroll feeds from SAP to EnterpriseOne.

Sound accounting procedures include complete and accurate reporting of all payments to vendors to allow users of the State’s accounting system to review and report on all vendor payments. According to Neb. Rev. Stat. § 81-1110.01 (Reissue 2008), the purpose of the accounting division of the Department of Administrative Services (DAS) is:

“[T]o prescribe, coordinate, and administer a centralized, uniform state accounting and payroll system and personnel information system, to establish and enforce accounting policies and procedures for all state agencies, boards, and commissions, to monitor and enforce state expenditure limitations established by approved state appropriations and budget allotments, and to administer the federal Social Security Act for the state and the state’s political subdivisions.”

When vendor payments do not originate from the State's accounting system, it is difficult for users of the two systems to ascertain the total amounts paid to all vendors. This was noted as a prior year finding.

We recommend the NSCS work with DAS and/or the University to develop a process that allows vendor payments to be recorded in the State's accounting system.

NSCS's Response: The NSCS understands that the vendor payments made as part of payroll are processed differently than accounts payable, as part of the payroll clearing process. While the information is not available within the vendor file, it is available in SAP as part of the journal entry that makes the clearing entries. The amounts provided in the journal entry are reconciled by the NSCS each month to assure that the correct transfers were made. The NSCS will continue to consult with the University, as recommended. Under the current process, the NSCS completes and documents the reconciliation each month to assure the payroll journal entries are accurate.

6. State Claims Board (State College System)

Neb. Rev. Stat. § 81-8,297 (Reissue 2008) states, in part, "The State Claims Board shall have the power and authority to receive, investigate, and otherwise carry out its duties with regard to... all requests on behalf of any department, board, or commission of the state for waiver or cancellation of money or charges when necessary for fiscal or accounting procedures...."

During our review of the NSCS's accounts receivable write-off procedures, we noted each of the Colleges annually submits accounts receivable, including tuition and fees and revenue bond and other fund accounts, to its Board of Trustees for write-off approval. However, no procedures were in place to further submit these write-offs to the State Claims Board for their approval. Based on historical data from 2004-2010, the NSCS average annual write-off for all three of the Colleges was approximately \$117,924.

When delinquent accounts receivable are not submitted to the State Claims Board for write-off approval, the NSCS is not in compliance with State statute.

This finding and recommendation has also been noted in prior audits.

We recommend receivables be submitted to the State Claims Board, in accordance with State statute, before they are formally written off.

NSCS's Response: The NSCS follows formalized write-off procedures that include Board of Trustees approval of write-offs in accordance with Board Policy #6008. The Board reviews and authorizes write-offs annually.

7. Long-Term Disability Deductions (State College System)

Employee long-term disability (LTD) deductions were based only on employee regular salary and not on employee total gross wages which would include additional compensation such as supplemental pay, adjunct pay, and health waivers. Testing of employee payroll at all three State Colleges noted the following exceptions:

- WSC: Three of eight employees tested.
- PSC: Five of eight employees tested.
- CSC: Three of eight employees tested.

The NSCS's Joinder Agreement for long-term disability insurance indicated LTD premiums (the cost of which is shared by the employer and employee) were determined, in part, by employee "predisability earnings" which the Agreement defined as "base pay plus extra duty pay."

When LTD deductions are based only on employee regular salary there is an increased risk of liability related to underfunding of benefits.

We recommend the NSCS implement procedures to ensure all employee payroll deductions, including long-term disability, be completely and accurately reported and deducted in accordance with all applicable provider agreements.

NSCS's Response: Upon learning of the APA concerns related to this item early in the audit process, the NSCS immediately reviewed the current payroll deduction process related to long-term disability and found that additional payments to employees beyond base salaries were not being included in the deduction calculation. A process has been worked out with the long-term disability provider and has been put in place to resolve this issue.

8. Team Travel Cash Advances (State College System)

Athletic Department staff routinely obtained cash advances for away-game travel for various athletic programs with one staff member receiving, in advance of such travel, a large cash advance to pay for meals, lodging, and other travel incidentals of the traveling party. Upon completion of travel, the staff member submitted a detailed accounting to the College business office of all monies spent, including actual receipts, along with any unused monies. It is a serious concern of each of the three College's Athletic Departments that, as a result of these procedures, their staff routinely travel with thousands of dollars of cash which unnecessarily exposes them to increased risks.

Sound accounting practices encourage, whenever possible, the reduction or elimination of the need for large cash advances which unnecessarily increase the entities risk exposures.

The issuance of large cash advances poses liability and safety risks to the State College System and its employees responsible for handling those advances.

We recommend the NSCS review this situation and consider alternatives, including, but not limited to such options as government travel cards, that would reduce or eliminate its liability exposure, improve the overall safety of those traveling, and yet also maintain proper documentation and controls over travel expenditures.

NSCS's Response: The NSCS agrees with this recommendation. This issue has been of concern to the NSCS for some time. Only recently have the travel cards become available to the NSCS, in coordination with DAS Accounting and the availability of an appropriate process in the SAP system. As soon as the process became available, the Colleges began implementation planning.

9. Vendor Prepayments (Chadron State College)

Our testing of accounts payable and subsequent expenditures noted two three-month prepayments of \$3,125 made in relation to an agreement for psychology consulting services.

The Nebraska State Accounting Manual, Section AM-005, Policies, Section 4 states, in part, "...though prepayments are not illegal, per se, they are in conflict with the normal claims process since the State has given up assets in anticipation of goods or services being rendered at a later date. (There is no enforceable claim against the State until goods or services are received.) Since the potential for loss to the State is greater under prepayment situations, extreme care should be exercised and a conscious effort should be undertaken to minimize prepayments at the agency level...."

When prepayment of goods and/or services are made, there is an increased risk of loss.

We recommend the College weigh the cost-benefit of prepaying for services to determine if it is in the State's best interest to pay for services in advance.

NSCS's Response: Chadron State agrees that prepaying for services must be considered on a case-by-case basis, weighing the cost-benefit.

10. Physical Inventory Procedures (Wayne State College)

At the time of audit fieldwork in October 2011, the College was in the process of completing its annual physical inventory but had not located 13 items with a total cost of \$140,056. Nine of these items, with a total cost of \$102,111, were reported as being in the Carhart Science Building which is under construction/remodeling with many physical assets moved into alternate space and/or storage.

Nebraska State College System Policy 7014, Inventories and Disposal of Surplus Personal Property, requires each College be responsible for maintaining inventory records for all assets, including performing physical inventories and reconciling those physical inventories to the accounting system. Policy 7014 also indicates that it is essential that persons taking the physical inventory be able to locate all items listed on the inventory promptly.

When complete and accurate physical inventories are not performed in a timely manner there is an increased risk of loss, theft, or misuse of assets.

We recommend the College take action to complete its current physical inventory, including a final determination of whether or not the assets in question can be located by the College. We further recommend the College implement procedures to ensure a timelier annual physical inventory.

NSCS's Response: The Wayne State inventory was completed on time and all items were reconciled to the accounting system, as required by Board policy. The thirteen items noted were located the previous year. With renovation in the Carhart Science building underway, many

items are in storage pods at this time. Nine of the thirteen un-located items may be in storage. Once the equipment in the storage pods is returned, the College can determine if the equipment should be included in the asset inventory.

11. Physical Inventory Procedures (Peru State College)

The College had started a physical inventory, however, the College indicated it was never completed due primarily to personnel changes. As a result, 20 assets were noted as not being able to be located and 287 assets had no indication of whether they had or had not been located. The majority of these 307 assets, which represented 28% of the College's total listed assets, were computers and printers.

Nebraska State College System Policy 7014, Inventories and Disposal of Surplus Personal Property, requires each College be responsible for maintaining inventory records for all assets, including performing physical inventories and reconciling those physical inventories to the accounting system. Policy 7014 also indicates that it is essential that persons taking the physical inventory be able to locate all items listed on the inventory promptly.

When complete and accurate physical inventories are not performed in a timely manner there is an increased risk of loss, theft, or misuse of assets.

We recommend the College take action to complete its current physical inventory, including a final determination of whether or not the assets in question can be located by the College. We further recommend the College implement procedures to ensure a timelier annual physical inventory.

NSCS's Response: The physical inventory was previously completed by the Assistant to the Vice President for Administration and Finance, who left Peru State shortly before the end of FY11. Two departments had not returned their physical inventory records when the assistant left the College, and the physical inventory remained incomplete. The Vice President for Administration and Finance and his staff completed the inventory in October, 2011. The College will establish an inventory procedure that assures the inventory records are promptly updated when items are added or removed from service and that the annual physical inventory is completed in a timely manner.

12. Capital Construction Bid Procedures (Chadron State College)

The College exclusively used one particular vendor for what it considered "minor concrete installation/repairs." From August 2008 to September 2011 a total of \$87,152 was paid to this particular vendor for small job concrete work. While these jobs, individually, were less than the \$15,000 bid threshold point at which informal bid procedures were required, the College gave no consideration to bundling these jobs into a competitively bid Request for Proposals (RFP) in an effort to minimize the overall project costs. The College asserted that bundling has not been considered due to the time constraints of employees who would be involved in the RFP process and as an incentive to keep this particular contractor interested in bidding on large concrete projects.

Board Policy 8064, Capital Construction; Bids, allows the College to contract directly with a responsible contractor after negotiating a contract price that is reasonable and within budget for all construction projects with a total cost of less than \$15,000. Projects costing between \$15,000 and \$50,000 are required to follow informal bid procedures which include obtaining three or more quotations. Sound business practices require CSC consider the cost/benefit of bidding services in order to take advantage of the cost savings associated with larger, competitively bid projects.

When the College does not aggressively pursue opportunities to minimize its project costs through competitive bidding, the College consciously forgoes such potential savings.

We recommend the College weigh the cost benefit of bundling comparable small projects, such as in the case of concrete work, in that a competitive bid process involving multiple vendors typically would be expected to result in some degree of project cost savings.

NSCS's Response: The NSCS is always looking at ways to improve efficiencies. However, the APA's comment appears to be a performance audit comment as opposed to a financial audit comment. In addition, the comment includes two fiscal years not part of the current FY11 audit. As stated in the APA comment, Chadron State complied with applicable Board policy on these contracts. The College is provided discretion, when below the limits established in policy, to determine what is in the best interests of the College to ensure quality and complete necessary projects in a timely and cost-effective manner.

APA Response: We disagree with the NSCS's assertion that this recommendation is not financial in nature. It is the duty of the APA to bring to the NSCS's attention those matters which we become aware of during the course of our financial audit which could be potentially beneficial to the NSCS.

C. OMB CIRCULAR A-133 SINGLE AUDIT MANAGEMENT LETTER COMMENTS

13. Auditor NeSIS Access

Program: Student Financial Aid Cluster

Grant Number & Year: Due to the crosscutting nature of this finding, all Student Financial Aid Cluster CFDAs open in the fiscal year ended June 30, 2011, are affected.

Federal Grantor Agency: U.S. Department of Education

Criteria: Neb. Rev. Stat. § 84-305 (Reissued 2008) states, in part, "The Auditor of Public Accounts shall have access to all records of any public entity, in whatever form or mode the records may be, unless the auditor's access to the records is specifically prohibited or limited by Federal or state law."

34 CFR § 668.24(f) (July 1, 2010) *Examination of records* states, in part, "(1) An institution that participates in any title IV, HEA program and the institution's third-party servicer, if any, shall cooperate with an independent auditor, the Secretary, the Department of Education's Inspector General, the Comptroller General of the United

States, or their authorized representatives, a guaranty agency in whose program the institution participates, and the institution's accrediting agency, in the conduct of audits, investigations, program reviews, or other reviews authorized by law. (2) The institution and servicer must cooperate by—(i) Providing timely access, for examination and copying, to requested records, including but not limited to computerized records and records reflecting transactions with any financial institution with which the institution or servicer deposits or has deposited any title IV, HEA program funds, and to any pertinent books, documents, papers, or computer programs.”

OMB Circular A-133 § 300 states, “The auditee shall... (b) Maintain internal control over Federal programs that provides reasonable assurance that the auditee is managing Federal awards in compliance with laws, regulations, and the provisions of contracts or grant agreements that could have a material effect on each of its Federal programs.”

A good internal control plan requires significant accounting systems, such as NeSIS, have a specific inquiry only access role developed for auditors to allow them to adequately conduct audits.

Condition: The Auditor of Public Accounts (APA) has not been granted inquiry access to the NSCS's student information system known as NeSIS which contains student records, information essential to comply with Federal audit requirements.

Questioned Costs: None

Cause: Unknown

Context: Access was initially requested on March 31, 2011. On November 21, 2011, representatives from the NSCS, University of Nebraska, and the APA met to further discuss the issue of NeSIS inquiry access and agreed that they would work together to ensure such access going forward. In order to obtain all NeSIS data necessary for testing of the Student Financial Aid Cluster for the fiscal year ended June 30, 2011, the APA obtained hardcopy NeSIS screen prints from NSCS personnel.

Effect: When the APA cannot view original student financial aid records as they exist in the NSCS's official system of record, there is an increased risk of incomplete and/or altered information being made available for testing of Federal compliance requirements.

Recommendation: We recommend the NSCS work with the University to create “inquiry only” NeSIS access for the APA.

Management Response: The NSCS complied fully with an arrangement worked out between the APA and the NSCS for access to NeSIS information during the FY11 audit. Planning for requested access for the FY12 audit is already underway in coordination with the APA.

Corrective Action Plan: There is no corrective action necessary because the NSCS fully complied with the process agreed to with the APA in advance of the FY11 audit.

Contact: Carolyn Murphy, Vice Chancellor for Finance and Administration, Phone: 402-471-2505

Anticipated Completion Date: N/A

APA Response: For FY 2011 we accommodated NSCS's inability to provide us NeSIS inquiry access by utilizing hardcopy screen prints from NSCS personnel. This is not, however, an acceptable permanent solution and, as such, NSCS must take corrective action to ensure NeSIS system access is made available for all future audits.

14. Calculation of Initial Grace Periods – Federal Perkins Loans (Chadron State College)

Program: CFDA 84.038 – Federal Perkins Loans Program – Special Tests

Grant Number & Year: Perkins Loans Program

Federal Grantor Agency: U.S. Department of Education

Criteria: 34 CFR § 674.31 and the Federal Student Aid Handbook, Volume 5 (Perkins Loans), both indicate that a Perkins Loan grace period is always day specific with the initial grace period beginning the day after the day the borrower drops below half-time enrollment.

Condition, Context and Cause: During testing of twelve students who entered into repayment status on their Federal Perkins Loans, it was noted that three of those students had not been timely identified by the College and converted into a repayment status and, as a result, those students were given grace periods ranging from 13 to 16 months; far in excess of the 9 month grace period provided for in Federal Perkins Loan Regulations. This issue appeared to be caused by the College's late determination of Spring 2011 student withdrawals and/or graduations and, once determined, the College reported to its third-party loan servicer those student's last date of attendance as being the date of the College's identification rather than the date the student had dropped below half-time enrollment.

Questioned Costs: None

Effect: When Perkins Loan initial grace periods are not completely and accurately identified and reported to the College's third-party loan servicer, the grace periods awarded to students are in excess of Federal regulations.

Recommendation: We recommend the College implement procedures to ensure prompt identification of Perkins Loan students entering repayment status related to changes in their enrollment. Once identified, we recommend the College calculate all Federal Perkins Loan initial grace periods in strict compliance with all applicable Federal regulations.

Management Response: Chadron State agrees with this recommendation.

Corrective Action Plan: The College will implement procedures to ensure prompt identification of Perkins Loan Students entering repayment status related to changes in their enrollment. The College is currently checking each student manually (cross checking the ACS report with NeSIS to make sure the student is above 6 hours). A report from NeSIS is being created to improve efficiency and reduce the hours dedicated to this task.

Contact: Dale Grant, Chadron State Vice President for Administration and Finance, Phone: 308-432-6202

Anticipated Completion Date: A manual process has been put in place. An improved process will be put in place as soon as the new report is developed.

15. **Timely Determination of Student Withdrawals (Chadron State College)**

Program: Student Financial Aid Cluster – Special Tests

Grant Number & Year: Various

Federal Grantor Agency: U.S. Department of Education

Criteria: 34 CFR § 668.22(j)(2) requires determination of unofficial withdrawals no later than 30 days after the end of the earlier of the payment period or period of enrollment, academic year in which the student withdrew, or education program from which the student withdrew.

Condition and Context: Return of Title IV funds calculations for three of eight students tested did not have the students' withdrawals determined by the College in a timely manner:

- In one instance a student who unofficially withdrew (left College without ever notifying College officials) during the Fall 2010 term, which ended December 17, 2010, was not identified by the College as having left school until January 28, 2011; 42 days after the end of the term.
- In two instances students had used NeSIS self-service to electronically withdraw themselves from College; one on October 26, 2010, and one on November 2, 2010. These student official withdrawals were not identified by the College as having left school until January 28, 2011; 94 days and 87 days, respectively, after date of student withdrawals.

Questioned Costs: None

Cause: Functionality in NeSIS to identify student withdrawals was turned off.

Effect: When student withdrawals are not timely determined, the College is not in compliance with applicable Federal regulations regarding administration of its Title IV funding.

Recommendation: We recommend the College implement controls to determine all student withdrawals, both official and unofficial, in a timely manner in accordance with all applicable Federal regulations.

Management Response: The Fall 2010 term was the first term for end-of-semester processing in the new NeSIS system. Not all reports had been developed in advance of the “go-live” date of the new system. The report required for this determination was provided on January 21 with testing and validation following that date.

Corrective Action Plan: This issue has been resolved with the creation of the report necessary for the determination.

Contact: Dale Grant, Chadron State Vice President for Administration and Finance, Phone: 308-432-6202

Anticipated Completion Date: Completed

16. Title IV Reconciliations (Chadron State College)

Program: CFDA 84-268 – Federal Direct Student Loans – Special Tests

Grant Number & Year: 2011 Federal Direct Student Loans

Federal Grantor Agency: U.S. Department of Education

Criteria: As a standard origination Direct Loan school 34 CFR § 685.102(b) requires the College, in part, to perform a monthly reconciliation in which their Direct Loan SAS data files recorded on the U.S. Department of Education’s system are reconciled with the College’s NeSIS/PeopleSoft system and any discrepancies are identified timely and resolved. In addition, OMB Circular A-133, Subpart C, regarding auditee responsibilities, requires auditees to maintain internal control over Federal programs that provide reasonable assurance that the auditee is managing Federal awards in compliance with laws, regulations, and the provisions of contracts or grant agreements that could have a material effect on each of its Federal programs.

Condition and Context: During compliance testing of Title IV programs and testing of College journal entries, the following was noted:

- The College did not reconcile its Direct Loan School Account Statement (SAS) data files on a monthly basis and did not have procedures in place to ensure the timely performance of such reconciliations. The College’s NeSIS/PeopleSoft system has a Direct Loan reconciliation report, FADLRECN, which can be run after the SAS data file is imported. The College only ran the FADLRECN program once during the entire Fall 2010 semester.
- Review of the College’s Cash Fund, Other Government Aid, account noted three instances, totaling \$80,719, during the fiscal year ended June 30, 2011, in which the College’s cash funds were used to cover Student Financial Aid (SFA) expenditure draw-downs which had been rejected in the posting process due to inadequate Federal

funding authorization. Of this amount, \$53,723 was subsequently reversed once adequate funding authorization was available, however, at the time of audit fieldwork in October 2011 \$26,996 had yet to be reversed. In addition to these three instances, it was reported that several times during the fiscal year the College also delayed reposting of rejected draw-downs until sufficient authorization was available to allow the draws to post.

Questioned Costs: None

Cause: The implementation of a new student information system caused a lack of resources that prevented the College from implementing adequate procedures to ensure compliance for the first half of fiscal year 2011.

Effect: When the College's Federal disbursements to student accounts are not completely and accurately reconciled with their related Federal authorizations in a timely manner not only is the College not in compliance with applicable Federal regulations but the College's cash flow is unnecessarily affected.

Recommendation: We strongly recommend the College implement procedures to ensure all Federal fund expenditures are completely and accurately reconciled with their related Federal authorizations on an ongoing and timely manner.

Management Response: The College agrees with this recommendation. With the implementation of the NeSIS System, new procedures were necessary to assure accurate reconciling.

Corrective Action Plan: The College is currently running the new procedure monthly and making appropriate changes as they are identified.

Contact: Dale Grant, Chadron State Vice President for Administration and Finance, Phone: 308-432-6202

Anticipated Completion Date: Completed.

D. INFORMATION TECHNOLOGY (IT) MANAGEMENT LETTER COMMENTS

17. NeSIS SACR Security (State College System)

The State College Systems Student Information System (NeSIS) restricts access in two ways. First, users are granted roles which permit the user to access various screens in NeSIS. The other way is to limit user access to data once they reach a screen granted to them by a role; this is called SACR (Student Administration & Contributor relations) security or row level security. For instance, a College can grant a user access to see student information by granting the user a specific role. The College can then restrict the employee's access to student information using SACR security. Using SACR security, the College would be able to restrict an employee's access to only WSC students. Without this additional SACR security setting, the employee would be able to see student information for all State College students.

It was noted logging of SACR security changes were not recorded to allow the review of user access at the SACR security level.

Without adequate logging of user access, the degree of a user's access cannot be adequately identified once the ID has been deleted. In cases of unauthorized access, there is an increased risk the NSCS will be unable to adequately identify student records that could have been accessed.

We recommend the NSCS adequately capture the history of a user's access through documentation of SACR security applied to user profiles. As SACR security can be applied at a very granular level, our recommendation to adequately document SACR security includes at a minimum, the ability to ascertain the data a user could access at the campus, career, program, and plan levels.

NSCS's Response: The NSCS agrees with this recommendation and is in the process of enabling SACR auditing for all SACR changes.

18. Password Parameters (State College System)

The State College System has partnered with the University of Nebraska to join their instance of Systems Applications and Products (SAP) accounting software for financial, human resource, and payroll functions. The State College System has also collaborated with the University of Nebraska in the implementation of a new student information system known as NeSIS. Due to the nature of these partnerships, key elements of the system infrastructure are administered by the University of Nebraska.

Good business practices include establishing documented policies regarding minimum password standards that must be used by users to help adequately protect IT resources. A good internal control plan includes system enforced password parameters to ensure users meet minimum password standards.

IT Governance Institute's Control Objectives for Information and Related Technology (COBIT), Process Control 5, *Policy, Plans and Procedures* states, "Define and communicate how all policies, plans and procedures that drive an IT process are documented, reviewed, maintained, approved, stored, communicated and used for training. Assign responsibilities for each of these activities and, at appropriate times, review whether they are executed correctly. Ensure that the policies, plans and procedures are accessible, correct, understood, and up to date."

There was no enterprise-wide password policy. Both SAP and NeSIS had password parameters and policies defined within various identity management systems, but did not appear to be reasonable or consistent based on other state government and University of Nebraska password policies in existence.

TrueYou identity management password parameters were not set at a sufficiently strong level to ensure only appropriate individuals gained access to SAP or NeSIS. Professional users in SAP were revoked after 10 failed login attempts. The TrueYou password policies used for NeSIS

users were based on the level of access the user had in SAP. If a user had Employee Self Service (ESS) access in SAP, their password only expired every 3,650 days regardless of the level of access they had in NeSIS. State College users at PSC and CSC authenticate to NeSIS through TrueYou.

WSC set up their own NeSIS ID management system to manage their password parameters separately; however, WSC parameters were not consistent with TrueYou settings and did not appear to be reasonable based on other State government and University of Nebraska password policies in existence. The password parameters at WSC were as follows: passwords had to be changed every 40 days; however, users were still allowed to login 12 times after the 40 days had expired without actually changing their password; and password length had to be at least five characters. Users were allowed to continuously use the same password. Passwords did not have to contain at least one letter and one number, and there was no limit on the number of failed login attempts a user had. A user was not notified when their password was reset through a self service question and answer process. In addition, there was no limit to the number of chances an individual had to correctly answer the password reset questions.

When enterprise-wide policies are not established by management, there is an increased risk password parameters set by State College IT staff will not be sufficiently strong and in line with management's intentions. Strong password parameters are essential in providing adequate security to information systems and protecting internal data. Weak password parameters increases the risk unauthorized users may gain access to information systems and compromise the integrity and confidentiality of highly sensitive data.

We recommend the NSCS work with the University to develop, approve, and publish minimum enterprise-wide password standards. We also recommend implementing TrueYou password settings that would revoke users after a reasonable number of unsuccessful login attempts, and require their password to be changed every 30 to 90 days. We also recommend WSC implement password settings that include requiring passwords to be at least eight characters, changed at least every 30 to 90 days, stored so they cannot be reused within a year, revoked after a reasonable number of unsuccessful login attempts, and contain a mix of case, letters, numbers, and special characters. Finally, we recommend users be notified of password changes originating from a question and answer process, and limit the number of attempts a users has to correctly answer those questions.

NSCS's Response: The State Colleges and University utilize a central authentication system called TrueYou for NeSIS. TrueYou enforces a common password parameter requirement, and a password reset policy based on an assigned end-user role. Currently, TrueYou does not have an automated policy assignment in place for NeSIS end-users. The NSCS and University worked on automating this process, and it was in place and operational by the fall semester 2011. The NSCS agrees with the recommendation for an enterprise wide password policy and its enforcement with campus specific Lightweight Directory Access Protocols (LDAPs) (such as what is used at WSC) to authenticate end-users into NeSIS. WSC staff are currently testing and aligning with the TrueYou password policy. Additionally, we will review the current password reset frequency rules as recommended.

19. NeSIS Terminated User Access (State College System)

State College Board policy 5008 states, in part, “When any user terminates his or her relations with the college, his or her username and password shall be denied further access to college computing resources as stated in institutional policy generally or upon employment termination.”

For 1 of 2 terminated State College employees tested with NeSIS access, their access was not removed within 3 business days following the termination. The following table illustrates the employee whose access was not removed upon termination, as well as the approximate number of business days since termination (excluding holidays) as of *April 25, 2011.

<u>Employee</u>	<u>Campus</u>	<u>Termination Date</u>	<u>*Days Since Termination</u>
1	PSC	10/1/2010	147

During new hire testing it was noted one University of Nebraska at Omaha (UNO) new hire had previously terminated employment from PSC on May 11, 2010; however, her State College roles in NeSIS had not been removed. The roles were subsequently removed after the Auditor of Public Accounts (APA) brought it to Computing Services Network’s attention on May 5, 2011.

When a user’s access to IT systems is not terminated timely, there is an increased risk business processes will be negatively impacted due to terminated employees accessing critical resources.

We recommend the State Colleges develop a formalized process to remove access to applications. We recommend terminated users access be removed immediately.

NSCS’s Response: The NSCS agrees with this recommendation. The NSCS is reviewing the identified individual and has requested the campus Security Coordinator to remove access immediately. Completion is anticipated during FY12. A new automated process has been established to remove access upon employee termination.

* * * * *

It should be noted this letter is critical in nature since it contains only our comments and recommendations and does not include our observations on any strong features of the NSCS.

Draft copies of the comments and recommendations included in this management letter were furnished to the NSCS to provide them an opportunity to review the comments and recommendations and to respond to these comments and recommendations. All formal responses received have been incorporated into this management letter. Responses have been objectively evaluated and recognized, as appropriate, in the management letter. Responses that indicate corrective action has been taken were not verified at this time, but will be verified in the next audit.

This letter is intended solely for the information and use of management, the Board of Trustees, others within the Nebraska State College System, and the appropriate Federal and regulatory awarding agencies, and pass-through entities and is not intended to be and should not be used by anyone other than these specified parties.

Sincerely,

Signed Original on File

Don Dunlap, CPA
Assistant Deputy Auditor