MANAGEMENT LETTER
OF THE
NEBRASKA STATE COLLEGE SYSTEM

JULY 1, 2011 THROUGH JUNE 30, 2012

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Issued on December 21, 2012

NEBRASKA AUDITOR OF PUBLIC ACCOUNTS

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December 21, 2012

Mr. Stanley Carpenter, Chancellor
Board of Trustees
Nebraska State College System
P.O. Box 94605
Lincoln, Nebraska 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, 2012, and have issued our report thereon dated December 21, 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*

We have audited the financial statements of the business-type activities and the discretely presented component units of the Nebraska State College System (NSCS) (a component unit of the State of Nebraska) as of and for the year ended June 30, 2012, which collectively comprise the Nebraska State College System's basic financial statements and have issued our report thereon dated December 21, 2012. Our report includes a reference to other auditors. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued fby the Comptroller General of the United States. Other auditors audited the financial statements of the Nebraska State College Foundations, Revenue and Refunding Bond Funds, and Facilities Corporation, as described in our report on the Nebraska State College System's financial statements. The financial statements of these entities were not audited in accordance with *Government Auditing Standards* and accordingly this report does not include reporting on internal control over financial reporting or instances of reportable noncompliance associated with these entities.

Internal Control Over Financial Reporting

Management of the Nebraska State College System is responsible for establishing and maintaining effective internal control over financial reporting. In planning and performing our audit, we considered the Nebraska State College System'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 previously.

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*.

REPORT ON 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 Nebraska State College System's (NSCS) (a component unit of the State of Nebraska) compliance with the types of compliance requirements described in the U.S. Office of Management and Budget (OMB) Circular A-133 *Compliance Supplement* that could have a direct and material effect on the NSCS's major Federal program for the year ended June 30, 2012. The NSCS's major Federal program is identified in the Summary of Auditor's Results section of the accompanying Schedule of Findings and Questioned Costs. Compliance with the requirements of laws, regulations, contracts, and grants applicable to its major Federal program is the responsibility of the NSCS's management. Our responsibility is to express an opinion on the NSCS's compliance based on our audit.

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 its major Federal program for the year ended June 30, 2012, can be found in our separately issued Financial Statement and Reports Required by *Government Auditing Standards* and OMB Circular A-133 for the year ended June 30, 2012.

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 considered to be material weaknesses, as defined above.

COMMENTS RELATED TO THE AUDIT OF THE BASIC FINANCIAL STATEMENTS

SYSTEM OFFICE COMMENTS

1. Foundation Expenses

The Board of Trustees of the Nebraska State Colleges (“Board”), on behalf of Peru State College, Chadron State College, and Wayne State College, has entered into formal agreements to provide those colleges’ respective foundations – i.e., Peru State College Foundation, Chadron State Foundation, and Wayne State Foundation Board of Trustees – with financial assistance, resources, and services.

The three separate agreements differ somewhat with regard to the details of the assistance provided. In general, however, the Board has agreed to furnish the affiliated college foundations with, among other things, the following:

- Office space and various clerical services, such as telephone, email, photocopier, and computer support services.
- Payroll processing services for all foundation personnel.
- The ability for all foundation personnel to participate in the colleges’ health and life insurance plans.
- Funding for the payroll costs of three Chadron and three Wayne State foundation personnel.

Complete copies of the agreements between the Board and the college foundations may be found in Exhibit A of this management letter.

It should be noted that, pursuant to the terms of the agreements, the foundations reimburse the Board for the costs of many – though certainly not all – of the services and other benefits received. Despite any such reimbursement, a question exists as to the authority of the Board to provide private corporations, such as the college foundations, with funds, resources, facilities, and personnel of the colleges.

Additionally, by accepting and relying upon NSCS funds, resources, facilities, and personnel to sustain them, the college foundations may have inadvertently created something of a quandary regarding the purportedly private identity of both their activities and the money that they manage. All three of the foundations have registered with the Nebraska Secretary of State as separate, non-profit corporations. Regardless, in light of their dependence upon what amounts, in essence, to a form of public funding and collaboration, the college foundations may risk being viewed as instrumentalities of the institutions that they serve – and, therefore, being treated as public entities themselves. Such an outcome could have far-reaching consequences regarding the handling and disposition of the many millions of dollars that each foundation currently oversees.

In order to address and, hopefully, put to rest the concerns addressed herein, the Auditor of Public Accounts (APA) encourages the Board to seek the guidance of the Nebraska Attorney General, possibly through the issuance of a formal legal opinion, as to the legal implications, as well as the advisability, of continuing its agreements with the college foundations.

Management Response: The NSCS will review the APA concerns raised regarding the Foundations.

2. <u>Contract Bidding</u>

Board policy # 7016 states the following: *(Note-The underlined and crossed-out languages are changes made and approved by the Board on June 15, 2012. The previous policy was dated April 13, 2007)* "The Board recognizes the value and financial savings that may accrue from the use of experienced consultants to the Board, staff and faculty on special aspects of the College programs. Since no institution can include in its personnel appointments all the highly qualified and widely experienced people on all phases of College operations, the Board will therefore contract from time to time as appropriate with individuals or groups for special consulting services.

The hiring and retention of personnel not regularly employed by the Colleges and the System Office to act as legal counsel or auditor, for durations greater than five (5) days for any College or the System Office, shall be approved by the Chancellor. In each instance the Chancellor shall notify the Board.

In all other cases, the Presidents are delegated the responsibility for selecting, negotiating and signing on behalf of the Board, contracts under twenty-five thousand dollars ($25,000) for consultation services. For such contracts where the fee is estimated to be between twenty-five thousand dollars ($25,000) and fifty thousand dollars ($50,000), the contracts shall be approved by the Chancellor and signed by the President and Chancellor. All consulting contracts exceeding fifty thousand dollars ($50,000) that are covered under this policy shall follow a competitive RFP process and be approved by the Board and signed by the President and Chancellor. Any consulting contract not requiring Board approval must be reported to the Board."

Thus the policy dated April 13, 2007, required, "All consulting contracts exceeding fifty thousand dollars ($50,000) that are covered under this policy shall follow a competitive RFP process and be approved by the Board and signed by the President and Chancellor." This policy covered legal counsel or auditor services. In addition, a good internal control plan as well as overall good business practices require procedures be in place to ensure the most economical and price competitive services are obtained whenever possible.

In our testing of contracts we noted two contracts, that were entered into prior to the June 15, 2012, revision of Board Policy #7016, both of which exceeded the $50,000 competitive Request for Proposal (RFP) amount. However, neither of these contracts went through a competitive RFP process. The first contract was entered into on October 10, 2011, for professional legal services related to an NCAA Infractions Investigation at Chadron State College. During the period of November 2011 through September 2012 the NSCS paid a total of $199,720 in relation to this contract. The second contract was entered into on September 28, 2011, for forensic accounting services also in connection with the same NCAA Infractions Investigation. During the period of October 2011 through March 2012 the NSCS paid a total of $50,712 in relation to this contract.

When questioned why these services had not been subject to a competitive bid process before being contracted, System Office personnel provided the following explanation:

> *"Bids were not obtained for either of these contracts due to the critical need for these services and the timing of when these services were needed. In the case of Stinson, Morrison, Hecker-LLP, they were also selected due to their expertise in handling NCAA litigation. Board Policy 7016 allows the Chancellor to approve hiring of legal counsel or auditor services. These contracts were also approved by the Board in the November meeting."*

In addition, it was brought to the APA's attention by NSCS personnel that the following language, "*The hiring and retention of personnel not regularly employed by the Colleges and the System Office to act as legal counsel or auditor, for durations greater than five (5) days for any College or the System Office, shall be approved by the Chancellor. In each instance the Chancellor shall notify the Board,*" which was added above to policy 7016, was indeed in place at the time these contracts were entered into under a different policy, policy 5023. However, policy 5023 was under the "personnel" section of the Board's policies and it did not cover the purchasing aspects of obtaining legal counsel and/or audit services.

Notwithstanding the above explanation, the APA believes Board policy #7016, dated April 13, 2007, the Board policy that was in place at the time the two contracts were entered into, is applicable to both of these contracts and each should have been competitively bid in accordance with Board policy. Furthermore, whenever significant State resources are to be used, the NSCS should follow all proper procedures to ensure the most economical use of those resources.

When a competitive RFP process is not followed the NSCS is at risk of not only noncompliance with applicable Board policy but also is at an increased risk of an uneconomical use of its resources.

> We recommend the NSCS implement procedures to ensure all Board policies, including those related to competitive bid requirements, are adhered to.

Management Response: The NSCS strives to follow all Board bidding policies and procedures. In this case we do believe that Board Policy was followed. Although Board Policy 5023 for hiring special services such as legal and auditing was not included in the "business management" section of Board Policy along with Board Policy 7016, Policy 5023 was in existence at the time these services were entered into and provided the Chancellor with the authority to hire these special services. As part of the decision on whether or not to do an RFP, consideration is given to several factors including timing and expertise.

3. State Claims Board

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 2007-2012, the NSCS average annual write-off for all three of the Colleges was approximately $161,098.

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 been noted in prior audits. In response to our fiscal year ended June 30, 2011 comment, the NSCS responded, "*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.*" Based on discussion with NSCS management the Board does not plan on changing their write-off policy.

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

Management Response: The NSCS continues its response from prior fiscal years which is noted above.

4. Payroll Vendor Payments

In our prior audit we noted that since 2003, the State of Nebraska (State) has utilized its 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 the State's accounting system 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 the State's accounting system. Payments made to vendors through the State's payroll process are recorded as vendor payments in the State's accounting system. However, instead of generating vendor payments through SAP or the State's accounting system 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 contributed by the employees and the NSCS through the NSCS payroll process between July 1, 2011, and June 30, 2012:

Contributions	State Colleges
Health and Dental Insurance*	$ 7,638,595
TIAA/CREF (retirement)	$ 6,510,556
All other Contributions	$ 1,021,415
Total	$ 15,170,566

**Contributions made on behalf of the 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 the State's accounting system.

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.

The NSCS responded to our follow-up inquiries on this prior year comment by stating: *"There are currently not any plans to change the process for these benefit payments. Last year's response remains the same for this year."*

> We continue to 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.

Management 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. Under the current process, the NSCS completes and documents the reconciliation each month to assure the payroll journal entries are accurate. The NSCS will continue to consult with the University.

CHADRON STATE COLLEGE COMMENTS

5. Status of the Prior "Athletics Department Procedures and Outside Bank Accounts" finding for Chadron State College

Background

During our prior audit field work for the fiscal year ended June 30, 2011, and specifically on September 29, 2011, Executive Management of the Nebraska State College System (NSCS) informed the Auditor of Public Accounts (APA) that BKD, LLP - CPAs and Advisors (BKD) had been hired to investigate possible financial issues at Chadron State College (CSC). 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. 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.

Our prior audit comment included the following general audit findings:

- Lack of institutional control by CSC Administration greatly contributed to the issues 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.

The purpose of this current year comment is to report to management and those in-charge of governance the follow-up procedures performed by the APA on the above prior year findings and to report the results of those follow-up procedures. Each finding from our prior audit will be summarized, our prior recommendation and CSC response to our finding and recommendation will be noted, follow-up procedures will be noted and conclusions reached based on our follow-up procedures. Our follow-up procedures consisted primarily of inquiries of staff as many of the corrective actions taken on the APA's recommendations were either implemented after the end of the current fiscal year, June 30, 2012, or are still in the process of being implemented. As such, we did not verify that the corrective procedures are actually in place and operational. Further follow-up procedures will be considered during the APA's audit of NSCS for the fiscal year ended June 30, 2013. (The APA's prior year comment can be found in its entirety by searching for reports for the "College System, Nebraska State" on the APA's website at www.auditors.nebraska.gov).

A. <u>Lack of Institutional Control</u>

Summary of Prior Year Finding

The situation in which CSC found itself embroiled appeared 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 was 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 under investigation. Given this knowledge, CSC could have dealt with and resolved these same issues in a proactive manner. We went on to note some of the circumstances and events which we believed contributed to the problem.

Prior Year Recommendation to Finding

We recommended 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 recommended that CSC establish a system of sound policies and procedures that will help ensure compliance with NCAA rules. We also recommended that CSC monitor and evaluate such compliance program to ensure the adequacy of its internal controls. We also, noted that 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.

Prior Year NSCS's Response to Finding

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.

Follow-up Procedures to Prior Year Finding

The APA verified that CSC established and filled a new accountant position that is specifically focused on athletic programs. We also verified the System Office and all three Colleges did review their policies and procedures.

APA's Conclusion to Lack of Institutional Control

See further details below.

B. <u>Undocumented Expenditures</u>

Summary of Prior Year Finding

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. 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 were 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.

Prior Year Recommendation to Finding

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.

Prior Year NSCS's Response to Finding

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.

Follow-up Procedures to Prior Year Finding

The APA verified that CSC did establish and fill a new accountant position that is specifically focused on athletic programs. We also verified the System Office and all three Colleges did review their policies and procedures. The APA made inquiries of CSC staff in regards to whether or not any of the undocumented expenditures were followed up on. Staff interviewed were not aware of any follow up procedures performed by CSC. The APA did verify an NCAA investigation is currently ongoing and not completed as of the date of this communication.

APA's Conclusion to Undocumented Expenditures

As the NCAA is currently investigating CSC Athletic Department's policies and procedures, the APA considers this matter pending until the final completion of the NCAA's investigation. The APA will consider follow-up procedures on this issue during NSCS's next audit contingent upon the NCAA's completion of its investigation.

C. <u>NCAA Education/Compliance Coordination</u>

Summary of Prior Year Finding

A discrepancy existed between the level of NCAA education and training that CSC administrators believed it regularly provided to its Athletics Department employees and the perceptions of those same employees as to the level of education and training that they were actually receiving. CSC had asserted that NCAA-related issues were routinely discussed at staff meetings, particularly as such issues arose. However, interviews with CSC coaches directly responsible for front-line NCAA compliance indicated a general perception that insufficient training was provided regarding the broad array of NCAA rules with which both the coaching staff and players were expected to comply.

Prior Year Recommendation to Finding

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.

Prior Year NSCS's Response to Finding

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

Prior Year APA's Response to Finding

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.

APA's Follow-up Procedures to Prior Year Finding and Conclusion to NCAA Education/ Compliance Coordination

The APA noted that CSC hired a compliance coordinator. As the NCAA is currently investigating CSC Athletic Department's policies and procedures, the APA considers this matter pending until the completion of this investigation. The APA will consider follow-up procedures on this issue upon the completion of the NCAA investigation during our next fiscal year audit.

D. <u>Athletic Department Procedures</u>

Summary of Prior Year Finding

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

1) **Prior Year Finding as it Relates to Collecting and Receipting of Concession Receipts**

   - Monies collected by the Athletics Department for deposit with CSC or the CSC Foundation are not being deposited in a timely manner.
   - Three entities provided concessions at various CSC athletic events. Concession receipts, expenditures, and profits were handled in various ways.
   - The Athletics Department received no reports on or information regarding the receipts, expenditures, or profits from two of the entities. 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 entity providing football concessions, the Athletics Department was to receive 40% of the annual net concession sales. When we asked to see the sales reports, the Athletics Department responded the reports were not on file; however, the Athletics Department was able to obtain the reports. According to the 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 cash sales transactions.
- CSC lacked procedures for determining where Athletics Department collections should be deposited. The Athletics Department collected 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 accounts.
- 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.

APA's Follow-up Procedures to Prior Year Finding and Conclusion to Collecting and Receipting of Concession Receipts

- Testing of timely deposits noted no exceptions. As a result, the APA concludes that CSC has taken appropriate corrective action and considers this finding resolved.
- Through discussion with CSC staff the following was noted:
    - Concession receipts for football games continue to be handled by an outside entity and the concession for all other events will be handled by CSC athletics.
    - All concession receipts are processed through SAP, NSCS's computerized financial accounting and reporting system - including the 40% of the annual net concession sales received from football games. However, our follow-up on whether the Athletics Department was monitoring whether CSC was receiving the 40% of the annual net concession sales from football concessions noted this procedure still had not been put in place and documented by CSC Athletic Department.
    - All concession expenditures are now processed and recorded on SAP.

- CSC Athletic Department will be implementing additional cash control measures. Those measures not yet implemented include; installing a cash register that will be used for all concessions and implementing an independent count of concessions beginning and ending inventory to be used by the Athletic Department to compare information to the sales reports and cash receipts.

Many of the procedures noted above were not put in place during our audit period or still have not been fully implemented. However, the APA notes CSC has taken a very proactive response to the prior year audit recommendations. However, an exception is still noted that CSC has not fully implemented monitoring procedures of football concession sales agreement. We continue to recommend CSC Athletic Department implement and document their monitoring procedures. The APA will consider follow-up on NSCS implementation of all the above procedures during our next fiscal year audit.

2) Prior Year Finding as it Relates to Title IX Football Reporting

The details of the 2009-2010 Title IX football recruiting expenditures reported by CSC appeared to be significantly understated. Though including expenditures from both CSC and CSC Foundation accounts, the Title IX report failed to reflect the activity of the outside bank accounts or the un-reimbursed personally funded expenditures of coaches.

APA's Follow-up Procedures to Prior Year Finding and Conclusion to Title IX Football Reporting

Based on discussion with Athletic Department staff, the Athletic Department now will use information from SAP as well as information from the CSC Foundation to complete all financial reporting to NCAA, including Title IX reporting. All information is being recorded into QuickBooks software. The Athletic Department set up QuickBooks to meet NCAA reporting requirements. The APA believes the procedures noted above, if fully implemented and monitored should provide for complete and accurate NCAA reporting. However, the NCAA is currently investigating CSC Athletic Department's policies and procedures and their investigation has not yet been completed as of the date of this communication. The APA considers this matter pending until the completion of this investigation. The APA will consider follow-up procedures on NCAA investigation results during our next fiscal year audit.

3) Prior Year Finding as it Relates to Unbilled Resources Provided to Last Chance for Glory Golf Tournament Sponsors

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.

APA's Follow-up Procedures to Prior Year Finding and Conclusion to Unbilled Resources Provided to Last Chance for Glory Golf Tournament Sponsors

According to CSC staff, they were not aware of any action taken by CSC on this issue. We continue to recommend CSC consider and document their consideration of whether or not the Last Chance for Glory golf tournament sponsors should make restitution to CSC for resources provided to tournament sponsors.

Prior Year Overall Recommendation to Athletic Department Procedures Finding

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.

Prior Year NSCS's Overall Response to Athletic Department Procedures Finding

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.

APA's Overall Conclusion to Prior Year Athletic Department Procedures Finding—See conclusions noted above.

E. <u>Disposition of Bank Account Funds</u>

Summary of Prior Year Finding

The outside bank account noted above were closed and had balances. The APA made specific recommendations of where those balances should be deposited. We also noted that there were other student organization accounts in existence which were in some way associated with CSC.

Prior Year Recommendation to Finding

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.

Prior Year NSCS's Response to Finding

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.

Prior Year APA's Response to Finding

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.

APA's Follow-up Procedures to Prior Year Finding and Conclusion to Disposition of Bank Account Funds

Disposition of the "C-Club" account; the "Concession" account; and the "Special" account

The APA determined both the C-Club" and the "Concession" bank accounts were closed and their balances deposited into the CSC Foundation. The balances of these two accounts were subsequently deposited with the State Treasurer as recommended by the APA.

The APA determined the "Special" account balance of $7,895 was originally held by Bill O'Boyle's attorney (attorney). The attorney sent a cashiers check (check) made payable to CSC, CSC Foundation and the Last Chance for Glory Group in an attempt to let the parties involved determine where this money should eventually be deposited. The APA determined this check was returned to the attorney as both CSC and CSC Foundation refused to accept the check. As of November 2012 the attorney still had possession of this check.

The APA believes CSC has taken appropriate corrective action as recommended by the APA in regards to C-Club" bank account and the "Concession" bank account. In regards to the "Special" account the APA believes CSC has also taken appropriate action by not accepting the check representing the balance of the "Special" account. The APA believes it is up to the attorney and Last Chance for Glory Group to determine the final disposition of the "Special" account.

Student Organization Bank Accounts

The APA determined CSC submitted to the State College Board (Board) a revised "Student Organization" policy # 3300, which was approved by the Board in June 2012. This revised policy, in part, states: "Student organizations are responsible to maintain their own bank accounts outside of the College and College Foundation for funds from student organization fundraising or other activities. No College or Foundation tax identification numbers shall be used on these accounts. Student organization funds held in such accounts do not belong to the College or Foundation and an accounting for those funds will not be included as part of the College's or Foundation's audit. Student organizations are financially and legally responsible for deposits to and expenditures from their accounts." College employees including, but not limited to, student organization advisors may not be signatories on student organization bank accounts." According to Board direction this policy is to be fully implemented by December 31, 2012.

Per discussion with NSCS staff all three Colleges are working with student organizations to implement the revised Board policy by getting all student organization accounts "off campus". ("Off campus" indicates student organizations money that was going to the

Foundation and was being held by the Foundation in "custodial accounts" or was recorded in SAP as agency funds, will now be going to separate outside bank accounts with no legal ties to the colleges.)

Our follow-up procedures noted the following for each of the three Colleges as it relates to identifying the student organization accounts:

- **CSC -** CSC had identified a total of 38 student organization accounts (accounts). As of October, 2012 three accounts have been moved off campus, 25 accounts still had balances at the CSC Foundation, and 10 student organizations had no funds at the CSC Foundation. The total of these accounts was not available.
- **WSC -** WSC had identified a total of 13 student organization accounts, totaling $120, as of June 30, 2012. As of December 2012 five of these accounts had been moved off campus and eight account balances remain in SAP totaled $300.
- **PSC -** PSC had identified at total of 61 student organizations accounts, totaling $59,226. As of October 2012, 28 of these accounts had been moved off campus and the 33 account balances remaining in SAP totaled $42,267.

APA's Conclusion on Student Organization Bank Accounts

The APA believes if NSCS fully implements and follows policy 3300 as written, the APA will consider that NSCS has taken appropriate corrective action on our prior audit finding as it relates to student organization bank accounts. The APA will consider follow-up on NSCS implementation of this policy when it is fully implemented by NSCS during our next fiscal year audit.

Management Response: As indicated in the title of this comment this is a prior year (fiscal year 2011) finding. The information contained in this comment is a status update and not a new finding.

PERU STATE COLLEGE COMMENTS

6. <u>Accounts Receivable Variance Between Systems</u>

There is an unreconciled variance between the student accounts receivable recorded in the Nebraska State College System's (NSCS) Student Information System (NeSIS) and SAP totaling $23,703 with NeSIS reporting $694,689 in student accounts receivable, while SAP is reporting $670,986.

Sound accounting practices require that proper procedures be in place to ensure the complete, accurate, and timely identification of all accounting system variances. This was a prior audit finding.

When systems are not reconciled, there is an increased risk errors, omissions, or misuse may go undetected.

> We recommend the college continue to work on identifying and correcting the variance and ensure that the NeSIS and SAP systems amounts for accounts receivable are reconciled on a regular basis.

Management Response: The majority of the accounting issues from the fiscal 2010-11 year have been identified. The Tuition & Fee A/R balance in 7198112503 is short due to the accounting entries posted to BR Refund Clearing, 7198110188, which should have been posted to the Tuition & Fees A/R. The College has implemented a procedure to monitor the BR Refund Clearing account on a monthly basis to avoid any further issues. Monthly journal entries are being made to move certain transactions into the Tuition & Fees A/R, but all of the necessary correcting entries from the 2010-11 and 2011-12 years have not been made. The College will continue making the correcting entries.

7. SAP/E1 Reconciliation

There is an unreconciled variance between the Cash Fund Accounts recorded in SAP and the State of Nebraska's accounting system. An attempt at reconciling the variance was performed in December 2011; however, no documentation of this reconciliation was provided and the accounts are still not reconciled. We noted the variance in the cash accounts at June 30, 2011, totaled $11,150 and the variance at June 30, 2012, was $12,180.

Sound accounting practices require that proper procedures be in place to ensure the complete, accurate, and timely identification of all accounting system variances. This was a prior audit finding.

When systems are not reconciled, there is an increased risk errors, omissions, or misuse may go undetected.

> We recommend Peru State College continue to work on identifying and correcting the variance and ensure that the SAP and the State of Nebraska's accounting system agree.

Management Response: The College will continue to work on identifying and correcting these variances.

8. Monitoring of Bookstore Contract

Effective July 1, 2011, Peru State College (PSC) entered into a contract with Validis to manage and operate the PSC Bookstore. In section 3.4 of the contract the following requirement was noted, "Validis will pay a signing bonus in the amount of $25,000 (The "Signing Bonus") to the College which is due and payable no later than 60 days after possession is delivered to Validis." Per inquiry of PSC staff this bonus has not been paid to PSC.

We also noted the incorrect commission percentage was paid. Per the contract, 6.5% of gross revenues were to be paid; however, only 6% was actually paid. The under report commission totaled $2,885.

In addition, the copy of the contract provided to the Auditors was signed by Validis but it was not signed by PSC. According to staff a PSC signed contract could not be located. PSC signed a copy of the contract in November 2012.

A good internal control plan would include monitoring procedures to ensure all contractual requirements of a contract entered into by PSC are being met and to ensure contracts are signed by both parties and kept on file.

When monitoring procedures are not in place there is a greater risk that contractual requirements will not be met. Furthermore, when all contracts are not properly signed and retained, there is an increased risk of potential legal liability should provisions be disputed by either contract party.

> We recommend that monitoring procedures be implemented on all contracts, including the Validis bookstore contract, to ensure all contractual obligations are being met. We further recommend signed copies of all contracts be obtained and retained by the College. Lastly, in relation to the Validis contract we recommend PSC take prompt action to collect the $25,000 signing bonus and the additional commission of $2,885.

Management Response: All contracts will now be forwarded to the VPAF office for signing and monitoring. The College now has a signed bookstore contract; has received the $25,000 signing bonus; and is receiving the higher 6.5% of gross revenues. In addition, the College has received the difference between the previous 6% and 6.5% commission.

9. Physical Inventory Procedures

During our prior audit we noted the Peru State College (PSC) had started, but did not complete, their calendar year 2011 capital asset physical inventory. During our current audit we noted the College did not complete their calendar year 2011 capital asset physical inventory and had not performed their capital asset physical inventory in calendar year 2012. As of August 2012, the College had 210 assets on their capital asset listing, at a cost of $51 million.

Nebraska State College System Policy 7014, Inventories and Disposal of Surplus Personal Property, requires each College to 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, accurate, and timely physical inventories are not performed, there is an increased risk of loss, theft, or misuse of assets.

> We continue to strongly recommend the College take action to complete its current physical inventory. We further recommend the College implement procedures to ensure future annual physical inventories are completed in a timely manner.

Management Response: A reorganization plan has been approved which will ensure personnel availability to manage the physical inventory and conduct the annual physical inventory in a timely manner.

10. Title IV Refunds

Program: Student Financial Aid Cluster - Special Tests

Grant Number & Year: Various

Federal Grantor Agency: U.S. Department of Education

Criteria: 34 CFR 668.22(g) (2011) states, "The institution must return, in the order specified in paragraph (i) of this section, the lesser of—(i) The total amount of unearned title IV assistance to be returned as calculated under paragraph (e)(4) of this section; or (ii) An amount equal to the total institutional charges incurred by the student for the payment period or period of enrollment multiplied by the percentage of title IV grant or loan assistance that has not been earned by the student…"

Per 34 CFR section 668.22(f), the total number of calendar days in a payment or enrollment period includes all days within the period, except that institutionally scheduled breaks of at least 5 consecutive calendar days (including module programs that a student is not required to attend for 5 consecutive calendar days) and days in which the student was on an approved leave of absence are excluded from the total number of calendar days in a payment period or period of enrollment and the number of calendar days completed in that period.

For calculating the percentage of the enrollment period completed, the 2011-2012 Federal Student Aid Handbook Volume 5 Chapter 2 mandates, "*Percentages are calculated to four decimal places, and rounded to three decimal places. The third decimal place is rounded up if the fourth decimal place is five or above. For example, .4486 would be rounded to .449, or 44.9%.*"

A good internal control plan would include procedures to ensure the calculation of the total number of enrollment days used in Title IV refunds is accurate.

Condition:
Wayne State College (WSC) - For 1 of 4 students tested with Title IV refunds, the refund was calculated incorrectly.

Chadron State College (CSC) - The total number of enrollment days for the spring 2012 semester was incorrectly calculated for the Title IV refund calculations. We also noted, for 6 of 24 refunds tested, the refunds were calculated incorrectly due to the enrollment days being calculated incorrectly or due to the calculation of institutional costs being incorrect. In addition we noted the Title IV refund forms used to process refunds were prepared by one person and there was no secondary review of the form to help ensure its completeness and accuracy.

Peru State College (PSC) - For 1 of 7 refunds tested, the refund calculation was incorrect. In addition, PSC does not have an approval process in place for Title IV refunds.

Questioned Costs:
WSC - $4.82
CSC - None
PSC - None

Cause:
WSC - Error in entering values into the R2T4 Worksheet.
CSC - Unknown
PSC - Unknown

Context:
WSC - For 1 of 4 students tested with Title IV refunds at Wayne, the refund was incorrectly calculated. When processing the R2T4 worksheet to calculate the refund, an error was made in calculating the institution charges for the student. The total amount of institutional charges was short by $10. The amount refunded to the federal government was $1553. The amount that should have been refunded was $1,558, resulting in an under-refunding of $5.

CSC - In calculating the total days of enrollment for the spring 2012 semester, the Financial Aid Office subtracted seven calendar days from the 117 days from January 9, 2012, to May 4, 2012, instead of the nine calendar days scheduled for breaks. In the spring 2012 semester, there was only one break of at least five calendar days long. This was spring break, which was from March 3 to March 11, or nine calendar days. The number of enrollment days used in the Title IV refund calculations was 110, seven days less than the 117 total calendar days.

Our testing also noted several minor errors in the calculation of refunds for 6 of 10 students tested who had Title IV refunds credited to the federal government. For 4 of the 6 students, we noted an error of $24 over-refunded to the federal government due to the miscalculating of the total days of enrollment in the spring 2012 semester. For 1 of the 6 students, the calculation for the institutional costs on the R2T4 worksheet was incorrect due to the usage of incorrect tuition rates and ineligible fees being added into the tuition total. This resulted in an error of $75 over-refunded to the federal government. For 1 of the 6 students, the refund was incorrectly calculated due to the miscalculation of total enrollment days in the spring 2012 semester and a miscalculation of the student's institutional costs due to the use of incorrect tuition rates. This resulted in an error of $26 under-refunded to the federal government. The overall result of these errors is a net over-refunded amount of $73 to the federal government.

PSC - An employee did not round the percentage of the enrollment period completed to the third decimal place as mandated by the Federal Student Aid handbook for R2T4 calculations. The percentage was rounded to the second decimal place, resulting in the refund being overstated by $14.

Effect: Instances of under and/or over-refunding of Title IV to the federal government. In addition, when procedures to ensure the accuracy of the calculation for the total number of enrollment days for Title IV refunds are not sufficient, there is an increased risk that the calculation of the percentage of the semester the withdrawn students had completed, which decides whether or not a refund is required and affects the amount of the refund calculated could be in error. As a result, there is an increased risk of errors and/or irregularities in the processing of refunds occurring and being undetected.

Recommendation: We recommend the Colleges develop policies and procedures to ensure the complete and accurate calculation of the total number of enrollment days for Title IV refunds. This would include having an individual separate from the preparer review and approve Return to Title IV calculations prior to the processing of returns.

> **Management Response:** The NSCS contracted with KPMG for the fiscal year 2012 A-133 audit. KPMG's A-133 audit report for the NSCS will be the one certified with the Federal Audit Clearinghouse. The NSCS appreciates the APA communicating any issues found as a result of its review of the NSCS Federal expenditures. The NSCS will review these recommendations and take corrective action as necessary to ensure Title IV refunds are properly calculated and done in accordance with Federal regulations.
>
> **Corrective Action Plan:** **WSC** – The error was the result of a clerical error. An adjustment to the student's loan was made on July 19, 2012 to correct this error.
>
> **CSC** – CSC will now have someone from the business office review the calculation of the R2T4.
>
> **PSC** – PSC had a rounding error when completing the R2T4 calculation. At that time the Federal website was down and the calculation was done manually. PSC has notated the issue so if the website is down in the future and a manual calculation is required, rounding will be carried out as dictated by Federal Regulation.
>
> **Contact:** WSC – Kyle Rose, Financial Aid Director
>
> **CSC –** Sherry Douglas, Financial Aid Director
>
> **PSC** – Janice Volker, Financial Aid Director
>
> **Anticipated Completion Date:** Fiscal year 2013

COMMENTS RELATED TO THE INFORMATION TECHNOLOGY (IT) AUDIT

11. NeSIS Security Breach

GAGAS 5.24 concerning the communication of significant matters in the Auditors' report states in part, "Examples of matters that auditors may communicate in a GAGAS audit include the following: b. Unusual or catastrophic events that will likely have a significant ongoing or future impact on the entity's financial condition or operations. d. Any other matter that the auditors consider significant for communication to users and oversight bodies in the auditors' report."

On May 23, 2012, the University of Nebraska discovered a security breach had occurred in the NeSIS system database. On May 25, 2012, the University breach was disclosed to the public. On June 1, 2012, the Nebraska State College System announced the security breach also included the State College NeSIS environment which was maintained by University IT staff. The State College environment did not house bank account information and there was no evidence that data was extracted from the system. A UNL student was suspected of the attack.

When a data breach occurs, significant financial and personnel resources are used to investigate the incident, notify affected parties, pay for potential litigation and remedial actions, and mitigate the risk of future breaches. Public trust is also negatively affected when a security breach involving sensitive information is involved.

> We recommend the State College System continue to inform the public of information regarding the security breach as it becomes available and acceptable to be disclosed.

Management Response: We agree with this recommendation. We will continue to inform the public of information regarding the security breach as it becomes available and acceptable to be disclosed.

Contact: Ed Hoffman

Anticipated completion: FY12/13

12. <u>Password Parameters</u>

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

IT Governance Institute's Objectives for Information and Related Technology (COBIT), Process Control 4.1, *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 in place to require consistent password complexity settings among all State College campuses. 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 higher education and state government password policies in existence.

WSC utilized their own management system to manage their password parameters; however, WSC parameters were not consistent with TrueYou settings and did not appear to be reasonable based on other higher education and state government password policies in existence. The password parameters at WSC were as follows: passwords had to be changed every 180 days for faculty and staff users; and users were able to log in 12 times after their password had expired.

We noted a similar finding in our prior audit.

When enterprise wide policies are not established by management, there is an increased risk password parameters set by various 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 State College System develop, approve, and publish minimum enterprise wide password standards. We also recommend WSC implement password settings that include requiring passwords to be changed at least every 90 days for all faculty and staff users. Finally, we recommend users be denied access when their password expires, until it is reset.

Management Response: We agree with this recommendation. A draft enterprise wide password policy will be developed, reviewed and approved by the appropriate management levels within the State College System during the coming fiscal year.

Contact: Ed Hoffman

Anticipated completion: FY12/13

13. <u>NeSIS Terminated User Access</u>

Nebraska State College employee Use of Campus Computers 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."

One State College user with read access to PeopleTools Application Designer and functional access to student financials pages had terminated on August 16, 2011, and still had access as of May 31, 2012. The user had both a named ID and a TrueYou ID stall active in the system.

For 4 of 4 terminated State College employees tested with NeSIS access, the APA was unable to determine if access was removed timely because the NeSIS audit log control established to record when a user's roles were added or removed was not functioning. For 2 of 4 State College employees, the APA was able to identify NeSIS access was not removed within three business days following the termination. For 1 of 4 terminations, there was no documentation available to indicate an appropriate staff member had been notified to remove the terminated employee's access.

Employee	Campus	Audit Log Available	Access Removed Timely
1	PSC	No	?
2	CSC	No	?
3	PSC	No	No
4	WSC	No	No

We noted a similar finding in our prior audit.

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. When IT controls do not function in accordance with management intentions, there is no support to verify staff is removing terminated employees in a timely manner.

> We recommend the State College System develop a formal system wide process to ensure appropriate staff is notified of all terminations in order to remove NeSIS access within a reasonable period of time. The creation, modification, and removal of a user's access should be documented and include a date stamp. We also recommend system audit logs be properly maintained.

Management Response: We agree with this recommendation. Working with the colleges and the NeSIS staff, we will begin the creation of a formal, system wide process for the removal, documentation and time stamped log of terminated staff from the NeSIS system.

Contact: Ed Hoffman, Don Mihulka

Anticipated completion: FY12/13

14. <u>SAP Change Management</u>

Good internal control includes a change management process that is performed by multiple individuals and is documented from start to finish.

The APA identified two individuals with access to complete the entire change management process. For 1 of 25 SAP changes tested, the change request form was completed by a single individual. Changes made through the formal process, using change request forms, were not reviewed when the change was performed by one individual.

We noted a similar finding in our prior audit.

Allowing a single person to develop, approve, and promote a change to SAP without review, increases the risk a change to the SAP application could be made in contrast to management's intentions.

> We recommend the University have a staff member, with knowledge of approved changes to SAP, perform and document his/her review of changes promoted to production. This employee should not be able to complete all aspects of a change.

Management Response: Currently, the change control process and software used does not easily allow this segregation capability. However newer, integrated software may allow segregating the change control steps and will be reviewed during the coming fiscal year.

Contact: Ed Hoffman, Loren Blinde, Scott Pyle

Anticipated completion: FY12/13

15. <u>NeSIS SACR Security</u>

Good internal control includes applying system security to user profiles so individuals only have access to read or alter data which is required as part of their job function. Changes to user access should be appropriately logged to document when changes occur and who performed the change.

During our audit of the NeSIS application, we noted logging of SACR security changes were not recorded to allow a full review of user access at the SACR security level. SACR security prevents users from accessing student information from other campuses, and can further restrict access by institution, department, program, etc.

Without adequate logging of user access changes, the degree of a user's access can only be reviewed at a point in time.

> We recommend the State Colleges adequately capture the history of a user's access through documentation of SACR security changes applied to user profiles.

Management Response: The State Colleges will continue to fully utilize SACR security and restrict users access to the least privileges needed to perform user's job function. We will investigate and determine the best method to adequately capture the history of a user's access through documentation of SACR security applied to user profiles.

Contact: Ed Hoffman, Don Mihulka, Mark Snook

Anticipated completion: FY12/13

*** * * * ***

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

EXHIBIT A

Collaborative Agreements Between the Board of Trustees of the Nebraska State Colleges (the Board) and the Foundations – Nebraska Non-profit Corporations (the Foundations)

Exhibit A-1 - **Wayne State Foundation Board of Trustees**

Exhibit A-2 - **Chadron State Foundation**

Exhibit A-3 - **Peru State College Foundation**

Collaborative Agreement

This Agreement is made by and between the Board of Trustees of the Nebraska State College System, hereinafter referred to as the "Board" and the Wayne State Foundation Board of Trustees, hereinafter referred to as the "Foundation."

This Agreement identifies a commitment between the Board and the Foundation to engage in cooperative practices and exchange benefits for the betterment of Wayne State College.

Nothing in this Agreement shall be interpreted to supersede the articles and by-laws of the Wayne State Foundation.

Role of the Foundation

As stated in the articles of incorporation, the Foundation is a separately incorporated, tax exempt §501 (c) (3) non-profit organization created to raise, manage, distribute, and steward private resources to support the various missions of the Wayne State College. The Foundation is responsible for identifying and nurturing relationships with potential donors and other friends of Wayne State College (hereinafter referred to as the College) and the NSCS. The Foundation shall solicit cash, securities, real and intellectual property, and other private resources for the support of the College. The Foundation Board of Trustees and its Executive Committee are responsible for control and management of Foundation assets.

The Foundation exists to raise and manage private resources supporting the mission and the long-term priorities of the College, to provide opportunities for students, faculty, and staff and to provide a margin of institutional excellence beyond what is otherwise possible.

The Foundation is dedicated to building the endowment for the support of the College and in addressing, through financial support, the academic and other priorities of the College, as submitted by the College to the Foundation.

The Foundation shall employ personnel experienced in planning for and managing private contributions to work with the NSCS and the College. Such employees are not employees of the College or the NSCS and are not afforded tenure or rank.

Role of the Board

The Board is legally responsible for the performance and oversight of all aspects of the Nebraska State College System, including Chadron State College, Peru State College, Wayne State College and the System Office.

The Board directs the strategic plan, priorities and operations for the NSCS.

The Board is responsible for the employment, compensation, and evaluation of all state college employees.

Role of the Chancellor

The Chancellor is responsible for overseeing the NSCS strategic plan, and for the leadership and operations for the Nebraska State College System.

The Chancellor acts as the official liaison between the Board of Trustees of the Nebraska State Colleges and the Foundation and is responsible for communicating the priorities and long-term plans for the state colleges to the Foundation either directly or through the College President.

The Chancellor is responsible for overseeing the employment, compensation, and evaluation of all the college presidents.

Role of the President

The President is responsible for setting priorities and long-term plans for the College in conjunction with the Board and communicating such priorities and long-term plans to the Foundation.

The President is responsible for overseeing the mission, and for the leadership and operations of the College.

Foundation's Responsibilities

The Foundation, in consultation with the College community and the President, is responsible for planning and executing a comprehensive fund-raising and donor-acquisition program in support of the College's mission. These programs may include annual giving, major gifts, planned gifts, special projects, and other campaigns as appropriate.

The Foundation is responsible for the control and management of all its assets, including the prudent management of all gifts consistent with donor intent and Internal Revenue Service requirements.

The Foundation shall continue to establish asset-allocation, disbursement, and spending policies that adhere to applicable federal and state laws including the Uniform Prudent Investor Act (UPIA) and the Uniform Prudent Management of Institutional Funds Act (UPMIFA).

The Foundation shall continue to engage an independent accounting firm annually to conduct an audit of the Foundation's financial and operational records and shall provide the College, the President and the Chancellor a copy of the annual audited financial statements, including the management letters by October 1 each year, in order to allow for inclusion with the NSCS Comprehensive Audit. The parties agree to revise the October 1 deadline as may be necessary to accommodate the schedule established by the State Auditor of Public Accounts. The Foundation has provided annual audits of the Foundation to the College in a timely manner since 2004 when GASB 39 was established. The Foundation shall **continue to work** with the College to adhere to pronouncements issued by the Governmental Accounting Standards Board including GASB 39. The Foundation shall continue to provide the President financial reports prepared for the Foundation's quarterly Executive Committee meetings. The President may share these reports with the Chancellor.

The Foundation is responsible for employment, compensation, supervision and evaluation of all its employees, including, but not limited to the **Executive Director**, **Director of Planned Giving** , **Director of Development and Alumni Relations,** and **Office Assistant I**. As part of its responsibilities as an employer, the Foundation shall adopt appropriate personnel policies and conduct any necessary and appropriate personnel orientation and training. Paid leave, holiday benefits and overtime provisions shall be established consistent with those established for College employees. The Foundation understands and agrees that the Board and the College are not responsible for the Foundation's obligations as an employer, although the Chancellor and President may provide input to the Foundation regarding the performance of the Foundation employees.

The Foundation may explore opportunities, including acquisition and management of real estate on behalf of the College and the Board for future allocation, transfer, or use.

The Foundation may serve as an instrument for entrepreneurial activities for the College and the Board and may engage in such activities as purchasing, developing, or managing real estate for College expansion.

The Foundation shall maintain, at its own expense, copies of the plans, budgets, and donor and alumni records developed in connection with the performance of its obligations.

The Foundation shall provide a portion of its unrestricted funds to a discretionary fund for the President and the Chancellor. The Foundation shall provide the President with an automobile suitable for the President and an annual expense account of no less than Ten Thousand Dollars ($10,000). The Foundation will deposit no less than Two Thousand Five Hundred Dollars ($2,500) into the account each quarter. Such funds may be used for the President's spouse to travel to Foundation and alumni events, dues for community organizations, flowers for funerals in the College and local community, off-campus banquets, off-campus wi-fi service for laptop during travel, and office publications, etc. Receipts for all expenses with appropriate documentation consistent with the IRS requirements shall be submitted to the Foundation. The Foundation shall also establish an annual expense account of no less than Fifteen Hundred Dollars ($1,500) for the Chancellor to be used for activities in support of the College. Receipts for all expenses with appropriate documentation consistent with the IRS requirements shall be submitted to the Foundation to receive reimbursement.

The Foundation shall provide a college support account to be used for presidential expenses, student and faculty research, campus events not supported by state funds, student travel to conferences, etc. The account will be managed by the Foundation Office. The President will submit requests for payments to the Foundation Office explaining the request for payment by attaching supporting information and/or receipts in accordance with IRS requirements.

The Foundation shall provide one-third of the payments in support of the NSCS's annual Senator's reception. The Foundation shall join the state college foundations in sponsoring the NSCS Teaching Excellence Award with an annual contribution **from each of the foundations** of One Thousand Dollars ($1,000) paid to the NSCS. **All of the state college foundations must participate in this award or the Foundation will not.**

The Foundation agrees to reimburse the College in a timely manner for all expenses that the College incurs as a result of the terms of this Agreement, including but not limited to, unemployment benefits paid on behalf of the Foundation's previous employees, the proportionate share of worker's compensation premiums paid on behalf of the Foundation's employees, expenses for central office services as described in this Agreement, additional insurance premiums expenses, retirement contributions for Foundation employees, employee benefits for Foundation employees, and all other related payroll expenses.

The Foundation recognizes that the Board is the employer of the Chancellor, the President, College employees and employees in the System office. The Foundation will continue to respect that employer/employee relationship and agrees not to interfere or insert itself into employment matters between the Board and the Board's employees.

Except for reimbursing the President's spouse for travel expenses related to accompanying the President on College business, the Foundation agrees that it shall not enter into any agreements or contracts with the Board's employees, or family members of Board employees to provide income, deferred compensation, or provide any other taxable benefits as defined by the Internal Revenue Service without prior written approval by the Chancellor.

The Foundation agrees that the Board's employees shall not be appointed as board members or directors for the Foundation in the future. Board employees who are currently serving as board members or directors for the Foundation may remain in that capacity through the end of his/her current term.

Board's Responsibilities

The Board shall provide the Foundation with office space including utilities free of charge. The Board shall also provide access to central office services including, but not limited to, telephone, facsimile, email, photocopier and computer support services. The Foundation agrees to reimburse the College for central office service expenses on a monthly basis through Foundation funds or an appropriate college account established in support of the Development and Alumni Office.

The Board shall include the Foundation as an additional insured on its general liability, property, and directors and officer's insurance coverage at no charge. The parties agree that if the Foundation causes, through any act or omission, insurance premiums to increase, the Foundation shall reimburse the Board for such premium increases.

During the period that this Agreement and in order to assist the Foundation, the Board shall continue to provide funding for three employees of the Foundation. Currently, those employees include two Office Assistants and the Assistant Director/Accountant. The Foundation agrees to continue to provide .09 FTE funding to the College for the Assistant Director/Accountant position.

The Board shall allow Foundation employees access to participate in the College plans for TIAA/CREF retirement programs; medical/dental, vision, long term disability, and life insurance plans; the immediate family tuition remission program; the tuition waiver program; and, Employee Assistance Program services in the same manner as College employees. The Foundation agrees to reimburse the College for the employer's share of the Foundation employee benefits.

The Board shall provide payroll processing services for Foundation employees in accordance with the College's normal policies and procedures. Wages must be paid by direct deposit or other means of electronic transfer. All Foundation payroll expenses shall be reimbursed to the College.

The Board may provide other benefits or services to assist the Foundation's work at the discretion of the Chancellor or President.

The Board shall make available to all College employees, the opportunity for payroll deduction for donations to be directed to the Foundation.

Hold Harmless

The Foundation agrees to protect, save and hold the Board of Trustees of the Nebraska State Colleges, all Directors, agents, officers, representatives and employees thereof, forever harmless for any damages, costs or charges imposed for violations of any law or ordinance occasioned by the negligence, affirmative act or omission of the Foundation, including the Foundation's Directors, agents, officers, representatives and employees. The agreement to hold harmless shall include, but not be limited to, reimbursement for any and all losses, costs, damages, liability or expenses including attorney's fees and litigation costs arising from this collaborative relationship and the terms of this Agreement.

The Board of Trustees of the Nebraska State Colleges agrees to protect, save and hold the Foundation, all Directors, agents, officers, representatives and employees thereof, forever harmless for any damages, costs or charges imposed for violations of any law or ordinance occasioned by the negligence, affirmative act or omission of the Board of Trustees, including the Board of Trustees' Directors, agents, officers, representatives and employees. The agreement to hold harmless shall include, but not be limited to, reimbursement for any and all losses, costs, damages, liability or expenses including attorney's fees and litigation costs arising from this collaborative relationship and the terms of this Agreement.

Meetings

To ensure effective achievement of the items of the agreement, the Chancellor and/or the President shall meet regularly with Foundation officers and/or executive employees to foster and maintain productive relationships, share information, and to ensure open and continuing communications and alignment of priorities.

Amendment

This Agreement may be amended upon written agreement of the parties.

Termination

Either party may, upon ninety (90) days written notice to the other party, terminate this Agreement. Notwithstanding the foregoing, either party may terminate this Agreement in the event the other party defaults in the performance of its obligations and fails to cure the default within thirty (30) days time after receiving written notice of the default.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officers as of the day and date first above written.

Larry Teahon — 1/12/10

Chair of the Board of Trustees — Date
On Behalf of the Board of Trustees of the
Nebraska State Colleges
Larry Teahon

Michael P. Bousquet — 10/17/09

President of the Board of Trustees — Date
On Behalf of the Wayne State Foundation
Mike Bousquet

Amendment
Collaborative Agreement

This Agreement is made by and between the Board of Trustees of the Nebraska State College System, hereinafter referred to as the "Board" and the Wayne State Foundation Board of Trustees, hereinafter referred to as the "Foundation."

This agreement amends the seventh paragraph on page 3 of the Collaborative Agreement signed on October 17, 2009 by President of the Wayne State Foundation's Board of Trustees, Mike Bousquet and Chair of the Board of Trustees of the Nebraska State Colleges, Larry Teahon on January 12, 2010.

Paragraph seven on page 3 will be amended to read:

The Foundation shall provide one-third of the payments in support of the NSCS's Senator's reception. *The Foundation shall provide to the NSCS the $3,000 to fund the annual NSCS Teaching Excellence Award when the recipient is a faculty member of WSC.*

In Witness Whereof, the parties have caused this amendment to the Collaborative Agreement to be executed by their duly authorized officers as of the day and date first above written.

Bill Dickey

President of the Board of Trustees
On Behalf of the Wayne State Foundation
Bill Dickey

1/26/12
Date

Carter Peterson

Chair of the Board of Trustees
On Behalf of the Board of Trustees of the Nebraska State Colleges
Carter Peterson

1-26-12
Date

COLLABORATIVE AGREEMENT

This Agreement is made by and between the Board of Trustees of the Nebraska State Colleges, (the "Board") for the benefit of Chadron State College (the "College") and the Chadron State Foundation, a Nebraska Non-profit Corporation (the "Foundation").

This Agreement identifies a commitment between the College, the Board and the Foundation to engage in cooperative practices and exchange benefits for the betterment of the College.

The Foundation is a separately incorporated, tax exempt §501 (c) (3) non-profit organization created to raise, manage, distribute, and steward private resources to support the various missions of the College. The Foundation is responsible for identifying and nurturing relationships with potential donors and other friends of the College. The Foundation solicits cash, securities, real and intellectual property, and other private resources for the support of the College. The Foundation Board of Directors is solely responsible for control and management of Foundation assets.

Nothing in this Agreement shall be interpreted to supersede the Articles of Incorporation and Bylaws of the Foundation.

This Agreement shall become effective upon the signature of the parties and shall continue until terminated as provided by the terms of this Agreement.

Foundation's Responsibilities.

The Foundation, in consultation with the College community and the President, is responsible for planning and executing a comprehensive fund-raising and donor-acquisition program in support of the College's mission. These programs may include annual giving, major gifts, planned gifts, special projects, and other campaigns as appropriate.

The Foundation is responsible for the control and management of all its assets, including the prudent management of all gifts consistent with donor intent and Internal Revenue Service requirements.

The Foundation shall continue asset-allocation, disbursement, and spending policies that adhere to applicable federal and state laws including the Uniform Prudent Investor Act (UPIA) and the Uniform Prudent Management of Institutional Funds Act (UPMIFA).

The Foundation shall continue to engage an independent accounting firm annually to conduct an audit of the Foundation's financial and operational records and shall provide the President and the Board a copy of said annual audit in a timely manner each year, in order to allow for inclusion with the NSCS' Comprehensive Audit. The Foundation shall continue to work with the College to adhere to pronouncements issued by the Governmental Accounting Standards Board including GASB 39. The Foundation shall continue to provide the President financial reports prepared for the Foundation's Board of Directors meetings. The President may share these reports with the Chancellor.

The Foundation is responsible for employment, compensation, supervision and evaluation of all its employees, including but not limited to, the Executive Director and Business Manager. As part of its responsibilities as an employer, the Foundation shall continue to maintain appropriate personnel policies, issue employment contracts, and conduct any necessary and appropriate orientation and training. Paid leave, holiday benefits, and overtime provisions shall be maintained consistent with those established for College employees. The Foundation understands and agrees that the Board and the College are not responsible for the Foundation's obligations as an employer, although the Chancellor and President may provide input to the Foundation regarding the performance of the Foundation employees.

The Foundation agrees to reimburse the College in a timely manner for all expenses that the College incurs as a result of the terms of this agreement, including but not limited to, unemployment benefits paid on behalf of the Foundation's previous employees, the proportionate share of worker's compensation premiums paid on behalf of the Foundation's employees, expenses for central office services as described in this Agreement, additional insurance premiums, retirement contributions for Foundation employees, employee benefits for Foundation employees, and all other related payroll expenses.

The Foundation shall continue to maintain, at its own expense, copies of the plans, budgets and donor and alumni records developed in connection with the performance of its obligations. The Foundation shall protect donor confidentiality and rights.

In August the Foundation establishes a budget for the fiscal year that begins on July 1st the following year. On or before June 15th, the Board and the President may submit a request to the Foundation to fund items that may include, but are not limited to, the following:

- NSCS Senators' reception for the benefit of the College;

- Funding for the NSCS Teaching Excellence Award;

- Discretionary funds to be used by the President, and at the President's discretion, for the benefit of the College, consistent with the Articles of Incorporation and By-laws of the Foundation.

- Discretionary funds to be used by the Chancellor, and at the Chancellor's discretion, for the benefit of the College, consistent with the Articles of Incorporation and By-laws of the Foundation.

Once the Foundation sets the budget, the Foundation will inform the Board of decisions regarding any requests on or before September 15th.

Receipts for all expenses, with appropriate documentation consistent with the IRS requirements, shall be submitted to the Foundation.

The Foundation has in prior years, provided a suitable automobile to the College for use by the President. The Foundation agrees, in good faith, to continue this arrangement, subject to the Foundation's ability to secure in kind donations that have made this possible.

Except for reimbursement for President's spouse's travel expenses related to accompanying the President on College business, the Foundation agrees that it shall not enter into any agreements or contracts with the Board's employees or family members of Board employees to provide income, deferred compensation, or other taxable benefits under the Internal Revenue Service Code without prior written approval of the Chancellor.

The Foundation agrees that the Board's employees shall not serve as board members or directors of the Foundation.

The Foundation recognizes the Board is the employer of the Chancellor, the President, College employees, and employees in the Nebraska State College System office. The Board and the College recognize that the Foundation is the employer of the Executive Director and the Business Manager of the Foundation. The Board and the College recognize also that the Director of Annual Giving and Alumni, the Coordinator of Special Events, and the Office Assistant II, work under the supervision and direction of the Executive Director of the Foundation. The Foundation, the College, and the Board agree to respect the respective employer-employee relationships set forth above.

College and Board's Responsibilities.

The Board shall provide the Foundation with office space necessary to conduct its activities, including utilities, maintenance and janitorial services, free of charge. The College and Board shall also provide the Foundation with, (i) access to its telephone and email systems; (ii) hosting of the Foundation's website; and (iii) computer support services. The Foundation agrees to reimburse the College for the actual cost of telephone (including long distance), email, website, and computer support service expenses on a monthly basis.

The Board shall continue to provide funding for three employees of the Foundation. Currently, those employees include the Director of Annual Giving and Alumni, the Coordinator of Special Events, and the Office Assistant II.

The Board shall allow Foundation employees access to participate in the College plans for TIAA/CREF retirement programs; medical/dental, vision, long term disability, and life insurance plans; the immediate family tuition remission program; the tuition waiver program; and, Employee Assistance Program Services in the same manner as College employees. The Foundation agrees to reimburse the College for the employer's share of the Executive Director and Business Manager's employee benefits.

The Board shall provide payroll processing services for Foundation employees in accordance with the College's normal policies and procedures. Wages must be paid by direct deposit or other means of electronic transfer. All Foundation payroll expenses for the Executive Director and the Business Manager shall be reimbursed to the College.

The College and the Board may provide other benefits or services to assist the Foundation's work at the discretion of the Chancellor or President.

The College and the Board shall make available to all College employees, the opportunity for payroll deduction for donations to be directed to the Foundation.

The College and the Board recognize that the Foundation is a separate legal entity with the authority to keep all records and data confidential consistent with applicable law.
The Board and the College recognize that the Foundation is the employer of the Executive Director and the Business Manager of the Foundation. The Board and the College recognize also that the Director of Annual Giving and Alumni, the Coordinator of Special Events, and the Office Assistant II, work under the supervision and direction of the Executive Director of the Foundation.

The Board shall include the Foundation as an additional insured on its general liability, property, and directors and officers insurance coverage at no charge. The parties agree that if the Foundation causes, through any act or omission, insurance premiums to increase, the Foundation shall reimburse the Board for such premium increases.

The Foundation recognizes the Board is the employer of the Chancellor, the President, College employees, and employees in the Nebraska State College System office. The Foundation, the College, and the Board agree to respect the respective employer-employee relationships set forth above.

Hold Harmless.

The Foundation agrees to protect, save and hold the College and the Board and all trustees, directors, agents, officers, representatives and employees thereof, forever harmless for any damages, costs or charges imposed for violations of any law or ordinance occasioned by the negligence, affirmative act or omission of the Foundation, including the Foundation's directors, agents, officers, representatives and employees. The agreement to hold harmless shall include, but not be limited to, reimbursement for any and all losses, costs, damages, liability or expenses including attorney's fees and litigation costs arising from a breach of the terms of this Agreement by the Foundation.

The Board agrees to protect, save and hold the Foundation and all directors, agents, officers, representatives and employees thereof, forever harmless for any damages, costs or charges imposed for violations of any law or ordinance occasioned by the negligence, affirmative act or omission of the Board, including the trustees, directors, agents, officers, representatives and employees. The agreement to hold harmless shall include, but not be limited to, reimbursement for any and all losses, costs, damages, liability or expenses including attorney's fees and litigation costs arising from a breach of the terms of this Agreement by the Board.

Meetings.

To ensure effective achievement of the provisions of this Agreement, the Chancellor and/or the President shall meet regularly with the Foundation's officers, directors and/or Executive Director to foster and maintain productive relationships, share information as appropriate and to ensure open and continuing communications and alignment of priorities.

Amendment.

This Agreement may be amended upon written agreement of the parties.

Termination.

Either party may, upon six (6) months written notice to the other party, terminate this Agreement. Notwithstanding the foregoing, either party may terminate this Agreement in the event the other party defaults in the performance of its obligations and fails to cure the default within Ninety (90) days time after receiving written notice of the default.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officers as of the day and date set forth below.

Larry Teahon | 3/26/10
Board Chair | Date
On Behalf of the Board of Trustees of the Nebraska State Colleges

[signature] | 3/22/10
Board Chair | Date
On Behalf of the Chadron State Foundation

Janie C. Park | 3-25-2010
President | Date
On Behalf of Chadron State College

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COLLABORATIVE AGREEMENT

This Agreement is made by and between the Board of Trustees of the Nebraska State Colleges, (the "Board") and the Peru State College Foundation, a Nebraska Nonprofit corporation (the "Foundation").

This Agreement identifies a commitment between the Board and the Foundation to engage in cooperative practices and exchange benefits for the betterment of Peru State College (the "College").

Nothing in this Agreement shall be interpreted to supersede the articles of incorporation and bylaws of the Foundation.

This Agreement shall become effective upon the signature of the parties and shall continue until terminated as provided by the terms of this Agreement.

Role of the Foundation

The Foundation is a Nebraska nonprofit corporation and operated for the benefit of, and in connection with, the College. The Foundation is tax-exempt under section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code") as a supporting organization under section 509(a)(3) of the Code. In connection with such purpose, the Foundation:

1. Works with the Board and the College to identify the College's needs, both short term and long term;
2. Promotes the College's educational program, faculty, employees, and students, and encourages the attendance of worthy and deserving students through scholarships and student loans; and
3. Solicits and accepts gifts, grants, devises and bequests of real and personal property, and holds, administers, uses, and disposes of the same for the accomplishment and furtherance of its purpose to support the College.

In connection with its fundraising and asset management activities, the Foundation retains personnel experienced in planning for and managing contributions.

Role of the Board

The Board is responsible for the performance and oversight of all aspects of the Nebraska State College System (NSCS), including the College, Chadron State College, Wayne State College and the NSCS Office.

The Board directs the strategic plan, priorities and operations for the NSCS.

The Board is responsible for the employment, compensation, and evaluation of all NSCS employees.

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Role of the Chancellor

The NSCS Chancellor ("Chancellor") is responsible for overseeing the NSCS strategic plan and for the leadership and operations of the NSCS.

The Chancellor acts as the official liaison among the Board, the College and Foundation and is responsible for communicating the Board's priorities and long-term plans for the College to the Foundation, either directly or through the President of the College ("President").

The Chancellor is responsible for overseeing the employment, compensation, and evaluation of the President.

Role of the President

The President is responsible for setting priorities and long-term plans for the College in conjunction with the Board and communicating such priorities and long-term plans to the Foundation. The President shall include the Foundation as a participant in the strategic planning for the College.

The President is responsible for overseeing the mission, and for the leadership and operations of the College.

Foundation's Responsibilities

The Foundation, in consultation with the Chancellor and President, is responsible for planning and executing a comprehensive fund-raising program in support of the College's mission. This program may include annual giving, major gifts, planned gifts, special projects and other campaigns as deemed appropriate by the Foundation.

The Foundation is responsible for the management of its assets, including the prudent management of all gifts consistent with donor intent, Internal Revenue Service requirements and investment standards governing nonprofits under Nebraska law.

The Foundation is responsible for the performance and oversight of all aspects of its operations and is governed by its bylaws.

The Foundation shall establish asset-allocation, disbursement and spending policies that adhere to applicable federal and state laws including the Uniform Prudent Management of Institutional Funds Act (UPMIFA).

The Foundation shall engage an independent accounting firm annually to conduct an audit of the Foundation's financial and operational records and shall provide the Chancellor and the President with a copy of the annual audited financial statements, according to a deadline agreed upon by the parties in order to allow for inclusion with the NSCS Comprehensive Audit. The Foundation shall cooperate with the College to adhere to applicable pronouncements issued by the Governmental Accounting Standards Board including GASB 39. In addition to the annual audit, the Foundation shall provide semi-annual reports to the Chancellor and the President summarizing the results of donations, expenditures and specific initiatives.

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The Foundation is responsible for employment, compensation, supervision and evaluation of all its employees, including, but not limited to the executive director of the Foundation. As part of its responsibilities as an employer, the Foundation shall adopt-personnel policies and practices it deems appropriate for Foundation employees.

The Chancellor, President and Board agree to respect the Foundation's employer/employee relationship and not to interfere with employment matters between the Foundation and its employees. The Foundation understands and agrees that the Board and the College are not responsible for the Foundation's obligations as an employer.

The Foundation may explore opportunities, including acquisition and management of real estate for future allocation, transfer, or use by the College.

The Foundation shall maintain, at its own expense, copies of the plans, budgets and donor and alumni records developed in connection with the performance of its obligations. The Foundation shall establish and enforce policies to protect donor confidentiality and rights.

Prior to the beginning of each calendar year, the Foundation shall establish a budget for such upcoming calendar year. The Foundation will obtain the input of the President in establishing such budget in order to identify both short term and long term financial needs of the College. The Foundation anticipates that, in accordance with past practices, and upon input from the Chancellor and President, such annual budget will include financial support for the following line items:

(a) car for the President;

(b) discretionary funds for the President and Chancellor for activities in support of the College;

(c) NSCS Senators' reception for the benefit of the College; and

(d) full funding of the NSCS Teaching Excellence Award when awarded to a College employee at the current award level or such other amount as agreed to by the Foundation.

The Foundation agrees that once its calendar year budget is set, the Board will provide a copy of the budget document to the Chancellor and President.

The Foundation will be responsible for furnishing the office space provided by the College at its expense including, but not limited to, the furniture, computers, computer software, telephones, and photocopy and facsimile machines.

The Foundation agrees to reimburse the College in a timely manner for unemployment benefits paid on behalf of the Foundation's employees, the proportionate share of worker's compensation premiums paid on behalf of the Foundation's employees, retirement contributions for Foundation employees, employee benefits for Foundation employees and all other related payroll expenses.

The Foundation recognizes that the Board is the employer of the Chancellor, the President, College employees and employees in the NSCS office. The Foundation agrees to respect that employer/employee relationship and not to interfere with employment matters between the Board and the Board's employees.

The Foundation agrees that it shall not enter into any agreements or contracts with the Board's employees or family members of Board employees to provide income, deferred compensation or other taxable benefits under the Internal Revenue Service Code without prior written approval of the Chancellor.

The Foundation agrees that the Board's employees shall not serve as directors of the Foundation.

Board's Responsibilities

The Board shall provide the Foundation with office space necessary to conduct its activities, including utilities, maintenance and janitorial services, free of charge. The Board shall also provide the Foundation with (i) access to its telephone and email systems; (ii) hosting of the Foundation's website; and (iii) computer support services. The Foundation agrees to reimburse the College for the actual cost of telephone (including long distance), email, website, and computer support service expenses on a monthly basis.

The Board shall allow Foundation employees access to participate in the College's TIAA/CREF retirement programs; medical/dental, vision, long term disability, and life insurance plans; the immediate family tuition remission program; the tuition waiver program; and, Employee Assistance Program services in the same manner as College employees. The Foundation agrees to reimburse the College for the employer's share of Foundation employee benefits.

The Board shall provide payroll processing services for Foundation employees in accordance with the College's normal policies and procedures. Wages must be paid by direct deposit or other means of electronic transfer. Accrual rates for vacation leave, sick leave, holidays, and overtime shall be established in a manner consistent with current, available leave plan accrual program codes within the College's payroll system. The Foundation shall reimburse the College for all payroll expenses incurred on the Foundation's behalf.

The Board may provide other benefits or services to assist the Foundation's work at the discretion of the Chancellor or President.

The Board shall make available to all College employees, the opportunity for payroll deduction for donations to be directed to the Foundation.

The Board recognizes that the Foundation is a separate legal entity with the authority to keep all records and data confidential consistent with applicable law.

The Board shall include the Foundation as an additional insured on its general liability, property, and directors and officers insurance coverage at no charge. The parties agree that if the Foundation causes, through any act or omission, insurance premiums to increase, the Foundation shall reimburse the Board for such premium increases.

Hold Harmless

The Foundation agrees to protect, save and hold the Board and all trustees, directors, agents, officers, representatives and employees thereof , forever harmless for any damages, costs or charges imposed for violations of any law or ordinance occasioned by the negligence, affirmative act or omission of the Foundation, including the Foundation's directors, agents, officers, representatives and employees. The agreement to hold harmless shall include, but not be limited to, reimbursement for any and all losses, costs, damages, liability or expenses including attorney's fees and litigation costs arising from a breach of the terms of this Agreement by the Foundation.

The Board agrees to protect, save and hold the Foundation and all directors, agents, officers, representatives and employees thereof, forever harmless for any damages, costs or charges imposed for violations of any law or ordinance occasioned by the negligence, affirmative act or omission of the Board, including the trustees, directors, agents, officers, representatives and employees. The agreement to hold harmless shall include, but not be limited to, reimbursement for any and all losses, costs, damages, liability or expenses including attorney's fees and litigation costs arising from a breach of the terms of this Agreement by the Board.

Meetings

To ensure effective achievement of the provisions of this-Agreement, the Chancellor and/or the President shall meet regularly with the Foundation's officers, directors and/or Executive Director to foster and maintain productive relationships, share information as appropriate and to ensure open and continuing communications and alignment of priorities.

Amendment

This Agreement may be amended upon written agreement of the parties.

Termination

Either party may, upon ninety (90) days written notice to the other party, terminate this Agreement. Notwithstanding the foregoing, either party may terminate this Agreement in the event the other party defaults in the performance of its obligations and fails to cure the default within thirty (30) days time after receiving written notice of the default.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officers as of the day and date set forth below.

Larry Teahon

Board Chair Larry Teahon
On Behalf of the Board of Trustees of the
Nebraska State Colleges

1/12/10
Date

Charles Niemeyer

Charles Niemeyer, Chair
On Behalf of the Peru State College Foundation

12/10/09
Date

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