



February 9, 2023

Mr. Greg McKenzie, Chair, Board of Trustees
Dr. Greg South, Interim President
North Idaho College
Coeur d'Alene, Idaho 83814

Dear Chair McKenzie and Interim President South:

This letter is a follow-up to my April 1, 2022 letter in which the Northwest Commission on Colleges and Universities (NWCCU) issued a *Sanction of Warning* to North Idaho College (NIC) and the letter of December 17, 2022, which required a response no later than January 4, 2023 describing how NIC is not out of compliance with several, identified Eligibility Requirement and Standards for Accreditation.

NIC has a long history with NWCCU, having sought and first been accredited in 1947. The decision by a college to seek institutional accreditation is entirely voluntary, notwithstanding the assurance of educational quality and eligibility for federal funding it affords. Member institutions agree, on an ongoing basis, to comply with NWCCU Eligibility Requirements, Standards, and Policies which in turn must comply with US Department of Education regulations. Institutional compliance is the first and most basic step in assuring continued accreditation and maintenance of membership.

In the view of the Commission, NIC's revised January 4, 2023 response, which was received on January 12, 2023, combined with recent and continuing public actions of the NIC Board of Trustees, fail to adequately demonstrate that the institution is in compliance with a number of NWCCU Eligibility Requirements and Standards for Accreditation.

Described below is a timeline of some of the recent actions at NIC, NWCCU Board of Commissioners' decision, and next steps.

Partial Summary of Recent Events and Actions at NIC

On September 22, 2021, the NIC Board fired President Rick MacLennan without cause, and the college's provost, Lita Burns, was named interim president. On October 1, 2021, Dr. MacLennan filed a wrongful termination lawsuit against NIC, which was settled on or about January 6, 2022.

On October 25, 2021, the NIC Board named NIC's wrestling coach, Dr. Michael Sebaaly, to serve as interim president.

On January 17-18, 2022, former president of the University of Nevada Reno and former NWCCU Commissioner Marc Johnson chaired a special peer review team to review NIC's financial sustainability, institutional integrity, human resources, and health and safety of the campus community, among other issues. The peer review team was appointed in response to multiple and extensive concerns regarding actions undertaken by NIC's Board of Trustees and perceived violations of NWCCU Eligibility Requirements and Standards. On February 4, 2022, the peer review panel issued its report.



Page 2
NIC Letter
February 9, 2023

On April 1, 2022, and in response to the Peer Review Panel's report and recommendation, the NWCCU Executive Committee acting for the NWCCU Board of Commissioners voted to approve a Letter of Action with the *Sanction of Warning*, which was sent electronically that same day to NIC.

On June 21, 2022, following an inclusive search process, the NIC Board named Dr. Nick Swayne to serve as president of the college.

On November 25, 2022, Marc Lyons, NIC's lawyer of 23 years, resigned. The NIC Board of Trustees hired attorney Art Macomber to serve as the college's attorney, ignoring its recruitment and hiring policies, despite the reminder to the Board by NIC President Swayne of the impropriety of the hiring process.

On December 8, 2022, the NIC Board of Trustees placed NIC President Swayne on administrative leave and ordered him off campus. In a December 9, 2022 letter to President Swayne, NIC attorney Art Macomber wrote that President Swayne was being placed on leave but not for any "disciplinary process."

On December 10, 2022, Dr. Sebaaly reportedly turned down the NIC Board's offer to return as acting president. Dr. Lloyd Duman and Ms. Sarah Garcia were then named by the NIC Board as acting Co-CEOs.

On December 16, 2022, President Swayne filed a lawsuit against NIC asking for declaratory relief for breach of his employment agreement.

The NWCCU Executive Committee met on December 16, 2022 and voted to authorize Commission Staff to send a letter to NIC listing the specific Standards for Accreditation and Eligibility Requirements on which the college is or appears to be out of compliance; the letter also stated that if NIC fails to respond demonstrating compliance, the college could be issued the sanction of Show Cause. The letter dated December 17, 2023 and requiring a response no later than January 4, 2023 was sent to Acting Co-CEOs Duman and Garcia.

On December 20, 2022, former Coeur d'Alene city attorney Michael Gridley filed a lawsuit against NIC Trustees McKenzie, Banducci, and Waggoner, and NIC attorney Macomber.

On December 21, 2022, the NIC Board took action to "cure" known Idaho Open Meeting Law violations from earlier meetings that had the effect of (1) reinstating President Swayne, (2) canceling the hiring of NIC attorney Macomber as NIC's attorney, and (3) restoring several suspended policies. Immediately afterwards, the Board acted to once again place President Swayne on administrative leave without cause, and once again hired attorney Macomber, retroactive to his original date of hire.

On or about December 21, 2022, the NIC Board named Dr. Greg South as interim president at the same time President Swain remained on administrative leave.

On January 4, 2023, NWCCU received NIC’s response to NWCCU’s December 17, 2022 letter. The cover letter for the response was signed by Interim President South. The college’s Accreditation Liaison Officer contacted NWCCU with a request to submit a revised letter, which was received electronically on January 12, 2023.

On January 7, 2023, the Coeur d’Alene Press reported that “North Idaho College attorney Art Macomber issued 15 subpoenas this week to college employees, former trustees, and others, seeking documents, emails, public record requests and other digital records related to the hiring of NIC President Nick Swayne.”

On January 10, 2023, Mr. Gridley amended the lawsuit to name NIC’s Interim President South as a party defendant.

Institutional Risks

The December 17, 2022 NWCCU letter to NIC required the institution to specify actions the college would undertake to be in compliance with the specific Eligibility Requirements and Standards. This letter underscored the voluntary nature of NWCCU membership, and further stated that failure to comply with NWCCU Eligibility Requirements, Standards, and Policies could result in a *Sanction of Show Cause* with an explanation of that Sanction.

The institution provided its revised response on January 12, 2023; however, its response alone does not form the basis for Commission action. Numerous complaints from members of the NIC and Coeur d’Alene communities have continued to be received by NWCCU; ongoing actions of the NIC Board – some documented in the press – continue to place the institution at risk for viability, including but not limited to:

- Three lawsuits, one settled and two active.
- Frequent changes in leadership with little to no input from relevant stakeholders, without following institutional policies and procedures.
- Uncertainty as to who is the Chief Executive Officer at North Idaho College, with a regular president placed on administrative leave (Swayne) and an interim president (South) appointed concurrent with the regular president.
- Declining enrollments, including termination of partnership with STEM Charter Academy, with concomitant reduction in tuition revenue.
- Continued exodus of faculty, staff, and senior administrators.
- Decision with little to no input to expand athletics program and to change athletics conference with potential added costs.
- Multiple No Confidence Resolutions from the Associated Students of NIC, NIC Faculty Assembly, and NIC Staff Assembly.

- Risk of significant financial stress, including but not limited to:
 - Expanded payroll for two presidents, interim provost, and special assistant to the interim president, along with moving expenses, and other contracted charges and/or obligations.
 - Significantly increased insurance costs with higher deductibles.
 - Moody's Bond Rating review for potential downgrade.
 - Declining donor support.

Commission Activity

The NWCCU Executive Committee has met several times to monitor and discuss concerning developments at NIC, including on November 15, 2021, February 11, 2021, March 15, 2021, April 1, 2022, June 21, 2022, November 2, 2022, December 16, 2022, and January 19, 2023.

Sanction of Show Cause

The NWCCU Board of Commissioners met on January 26, 2023, reviewed institutional responses and documents related to the chronology of events at NIC since 2019 and discussed the current situation at NIC. Convinced that the NIC Board of Trustees has not shown sufficient responsiveness to previous Commission action and, thus, fails to sufficiently appreciate the jeopardy it is placing the institution in with respect to the welfare and viability of the institution – much less its membership status with NWCCU – the Commission at its most recent regular meeting voted to issue NIC a *Sanction of Show Cause* as to why the institution's accreditation should not be withdrawn.

In light of the above, I draw your attention to NWCCU's [Accreditation Actions Policy](#):

NWCCU may require an accredited or candidate institution to show cause and note its accreditation is in jeopardy, when it does not appear to be in compliance with Standards for Accreditation, Eligibility Requirements, Policies, or applicable federal regulations, and there is evidence the non-compliance is sufficiently egregious such that it raises concerns the institution: has not made sufficient progress toward achieving compliance; does not appear to demonstrate capacity to comply with Standards for Accreditation, Eligibility Requirements, Policies, or applicable federal regulations under a timeframe set by the Commission pursuant to 34 CFR § 602.20(a)(2); is in imminent danger of closing; has demonstrated a lack of integrity, truthfulness, or responsibility, and the Commission determines students may be harmed; or information from monitoring activities suggests serious concerns related to student achievement, viability and capacity, or financial health.

A show cause action requires the institution to present evidence why its accreditation should not be withdrawn. A show cause action will identify Standards for Accreditation, Eligibility Requirements, Policies, or federal regulations that must be addressed in a show cause report, the due date, and require a show cause visit. For accreditation to be reaffirmed, the show cause report must provide evidence the institution made all necessary improvements and meets

the Standards for Accreditation, Policies, and applicable federal regulations. An on-site show cause visit will follow submission of the show cause report to verify the information submitted.

The show cause action will require a teach-out plan and, if applicable, teach-out agreement(s). The institution may be required to appear before the Commission to consider the status of its accreditation.

North Idaho College must address the following Eligibility Requirements and Standards for Accreditation in a **Show Cause Report, which is due March 13, 2023**:

Eligibility Requirements

2. OPERATIONAL FOCUS AND INDEPENDENCE: The institution's programs and services are predominantly concerned with higher education. The institution has sufficient organizational and operational independence to be held accountable and responsible for meeting and sustaining NWCCU's Standards for Accreditation and Eligibility Requirements.

7. NON-DISCRIMINATION: The institution is governed and administered with respect for the individual in a nondiscriminatory manner while responding to the educational needs and legitimate claims of the constituencies it serves as determined by its mission.

8. INSTITUTIONAL INTEGRITY: The institution establishes and adheres to ethical standards in all of its academic programs, operations, and relationships.

9. GOVERNING BOARD: The institution has a functioning governing board(s) responsible for the quality and integrity of the institution and for each college/unit within a multiple-unit district or system, to ensure that the institution's mission is being achieved. The governing board(s) has at least five voting members, a majority of whom have no contractual or employment relationship or personal financial interest with the institution. Institutions that are part of a complex system with multiple boards, a centralized board, or related entities, shall have, with respect to such boards, clearly defined authority, roles, and responsibilities for all entities in a written contract(s). In addition, authority and responsibility between the system and the institution is clearly delineated, in a written contract, described on its website and in its public documents, and provides NWCCU accredited institutions with sufficient autonomy to fulfill its mission.

10. CHIEF EXECUTIVE OFFICER: The institution employs an appropriately qualified chief executive officer who is appointed by the governing board and whose full-time responsibility is to the institution. The chief executive officer may serve as an ex officio member of the governing board(s) but may not serve as chair.

11. ADMINISTRATION: In addition to a chief executive officer, the institution employs a sufficient number of qualified administrators, with appropriate levels of authority, responsibility, and accountability, who are charged with planning, organizing, and managing the institution and assessing its achievements and effectiveness. Such administrators provide effective leadership and management for the institution's major support and operational functions and work collaboratively across institutional functions and units to foster fulfillment of the institution's mission. Executive officers may serve as an ex officio member of

the governing board(s) but may not serve as chair.

18. PUBLIC INFORMATION: The institution publishes current and accurate information regarding: its mission; admission requirements and procedures; grading policy; information on academic programs and courses; names, titles, and academic credentials of administrators and faculty; rules and regulations for student conduct; rights and responsibilities of students; tuition, fees, and other program costs; refund policies and procedures; opportunities and requirements for financial aid; and the academic calendar.

19. FINANCIAL RESOURCES AND PLANNING: The institution demonstrates financial stability, with cash flow and reserves necessary to support and sustain its mission, programs, and services. Financial planning ensures appropriate available funds, realistic development of financial resources, and appropriate risk management to ensure short-term financial health and long-term financial sustainability.

20. FINANCIAL ACCOUNTABILITY: For each year of operation, the institution undergoes an annual, independent financial audit by professionally qualified personnel in accordance with [generally accepted auditing standards](#) or [International Financial Reporting Standards](#) reconciled to US-GAAP. The audit is to be completed no later than fifteen months after the end of the fiscal year. Results from the audit, including findings and management letter recommendations, are considered annually in an appropriate and comprehensive manner by the administration and the governing board.

22. RELATIONSHIP WITH NWCCU: The institution understands and accepts the Standards and policies of NWCCU and agrees to comply with these Standards and policies. Further, the institution agrees that NWCCU may, at its sole discretion, make known the nature of any action, positive or negative, regarding the institution's status with NWCCU to any agency or member of the public requesting such information.

Standards for Accreditation

1.B.4 The institution monitors its internal and external environments to identify current and emerging patterns, trends, and expectations. Through its governance system it considers such findings to assess its strategic position, define its future direction, and review and revise, as necessary, its mission, planning, intended outcomes of its programs and services, and indicators of achievement of its goals.

2.Preamble: The institution articulates its commitment to a structure of governance that is inclusive in its planning and decision-making. Through its planning, operational activities, and allocation of resources, the institution demonstrates a commitment to student learning and achievement in an environment respectful of meaningful discourse.

2.A.1 The institution demonstrates an effective governance structure, with a board(s) or other governing body(ies) composed predominantly of members with no contractual, employment relationship, or personal financial interest with the institution. Such members shall also possess clearly defined authority, roles, and responsibilities. Institutions that are part of a complex system with multiple boards, a centralized board, or related entities shall have, with respect to such boards, written and clearly defined contractual authority, roles, and responsibilities for all entities. In addition, authority and responsibility between the system and the institution is clearly delineated in a written contract, described on its website and in its public documents, and provides the NWCCU accredited institution with sufficient autonomy to fulfill its mission.

2.A.2 The institution has an effective system of leadership, staffed by qualified administrators, with appropriate levels of authority, responsibility, and accountability who are charged with planning, organizing, and managing the institution and assessing its achievements and effectiveness.

2.A.3 The institution employs an appropriately qualified chief executive officer with full-time responsibility to the institution. The chief executive may serve as an ex officio member of the governing board(s) but may not serve as its chair.

2.A.4 The institution's decision-making structures and processes, which are documented and publicly available, must include provisions for the consideration of the views of faculty, staff, administrators, and students on matters in which each has a direct and reasonable interest.

2.D.2 The institution advocates, subscribes to, and exemplifies high ethical standards in its management and operations, including in its dealings with the public, NWCCU, and external organizations, including the fair and equitable treatment of students, faculty, administrators, staff, and other stakeholders and constituencies. The institution ensures that complaints and grievances are addressed in a fair, equitable, and timely manner.

2.B.1 Within the context of its mission and values, the institution adheres to the principles of academic freedom and independence that protect its constituencies from inappropriate internal and external influences, pressures, and harassment.

2.D.1 The institution represents itself clearly, accurately, and consistently through its announcements, statements, and publications. It communicates its academic intentions, programs, and services to students and to the public and demonstrates that its academic programs can be completed in a timely fashion. It regularly reviews its publications to ensure accuracy and integrity in all representations about its mission, programs, and services.

2.D.2 The institution advocates, subscribes to, and exemplifies high ethical standards in its management and operations, including in its dealings with the public, NWCCU, and external organizations, including the fair and equitable treatment of students, faculty, administrators, staff, and other stakeholders and constituencies. The institution ensures that complaints and grievances are addressed in a fair, equitable, and timely manner.

2.D.3 The institution adheres to clearly defined policies that prohibit conflicts of interest on the part of members of the governing board(s), administration, faculty, and staff.

2.E.2 Financial planning includes meaningful opportunities for participation by stakeholders and ensures appropriate available funds, realistic development of financial resources, and comprehensive risk management to ensure short term financial health and long-term financial stability and sustainability.

2.E.3 Financial resources are managed transparently in accordance with policies approved by the institution's governing board(s), governance structure(s), and applicable state and federal laws.

2.F.1 Faculty, staff, and administrators are apprised of their conditions of employment, work assignments, rights and responsibilities, and criteria and procedures for evaluation, retention, promotion, and termination.

2.F.3 Consistent with its mission, programs, and services, the institution employs faculty, staff, and administrators sufficient in role, number, and qualifications to achieve its organizational responsibilities, educational objectives, establish and oversee academic policies, and ensure the integrity and continuity of its academic programs.

Page 8
NIC Letter
February 9, 2023

2.F.4 Faculty, staff, and administrators are evaluated regularly and systematically in alignment with institutional mission and goals, educational objectives, and policies and procedures. Evaluations are based on written criteria that are published, easily accessible, and clearly communicated. Evaluations are applied equitably, fairly, and consistently in relation to responsibilities and duties. Personnel are assessed for effectiveness and are provided feedback and encouragement for improvement.

Show Cause Requirements

The Show Cause Report and Teach-Out Plan [as defined in 34 CFR 600.2 and described in 602.24 (c) (3)] are due no later than March 13, 2023, and must provide evidence NIC has made all necessary improvements and meets NWCCU Standards for Accreditation, Eligibility Requirements, and Policies.

The issuance of *Show Cause* requires an on-site peer review visit, which will occur April 17-18, 2023. A five-person, peer review team will verify the information in the Show Cause Report and Teach-Out Plan submitted by NIC.

A representative(s) of NIC may be required to appear before NWCCU Commissioners to consider the status of its accreditation at a future date to be determined.

Because of the *Sanction of Show Cause* and on-site visit related to the same, the previously scheduled Mid-Cycle visit will be delayed to Fall 2023, pending the results of the Show Cause visit.

Sincerely,



Sonny Ramaswamy
President

CC: Dr. Thayne McCulloh, NWCCU Board Chair
Dr. Ron Larsen, NWCCU Liaison
Ms. Mellissa Thoreson, NWCCU Director of Institutional Evaluation
Dr. Steve Kurtz, NIC Accreditation Liaison Officer
Mr. Matt Freeman, Executive Director, Idaho State Board of Education