



Response to Feb. 9, 2023 Show Cause Letter

Submitted to the Northwest Commission
on Colleges and Universities, March 30, 2023

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Introduction

“Firstly, I love North Idaho College, despite all the turmoil. I love NIC enough that I have made it a priority to meet every student, employee, and staff member I can. I hope to come back to NIC one day, and the loss of accreditation would cause me—and countless others—to lose the only place I’ve been able to call home.”
(Alex Elliott, ASNIC Senator & President Pro Tempore)

This Show Cause Report is a result of a letter received from the Northwest Commission on Colleges and Universities (NWCCU) dated [February 9, 2023](#). The letter stated:

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regular meeting voted to issue NIC a *Sanction of Show Cause* as to why the institution’s accreditation should not be withdrawn.

Our goal in this response is to provide to the NWCCU a report that demonstrates how the board and the college are in the process of resolving the issues identified in the February 9, 2023, letter and that NIC is fully committed to remain an accredited institution to serve our students and community in North Idaho.

Because of the unique nature of our situation, we have organized this report into three sections:

- I. Events: Risks and Timeline** - A list of the eight viability risks to NWCCU Eligibility Requirements and Standards cited in the February 9, 2023, letter, and a table offering a timeline of events related to the college’s governing board that precipitated these risks, as stated in the February 9 letter. These events will be used for reference as the risks are discussed.
- II. Response: NIC’s Response to the Eight Viability Risks** - An examination of the eight viability risks and the underlying problems that caused them. Each risk is divided into four sections: Board events that created the risks, the effects of those events on the college, a discussion, and evidence showing the college is working to resolve the risks to remain compliant with NWCCU Eligibility Requirements and Standards.
- III. Conclusion: Summary and Final Thoughts**

Section I.

Events: Risks and Timeline as stated in the February 9, 2023, NWCCU Letter to NIC

Viability Risks stated in the February 9 Letter:

1. Three lawsuits, one settled and two active.
2. Frequent changes in leadership with little to no input from relevant stakeholders, without following institutional policies and procedures.
3. 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.
4. Declining enrollments, including termination of partnership with STEM Charter Academy, with concomitant reduction in tuition revenue.
5. Continued exodus of faculty, staff, and senior administrators.
6. Decision with little to no input to expand athletics program and to change athletics conference with potential added costs.
7. Multiple No Confidence Resolutions from the Associated Students of NIC, NIC Faculty Assembly, and NIC Staff Assembly.
8. Risk of significant financial stress, including but not limited to:
 - o 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.
 - o Significantly increased insurance costs with higher deductibles.
 - o Moody's Bond Rating review for potential downgrade.
 - o Declining donor support.

Cross-Reference of timeline of events and associated risks. Text below is taken directly from the February 9, 2023, letter from NWCCU.

Timeline of events listed by NWCCU	Risk 1 Lawsuits	Risk 2 Leadership	Risk 3 CEO	Risk 4 Enrollment	Risk 5 Exodus	Risk 6 Athletics	Risk 7 No Confidence	Risk 8 Finances
November 25, Marc Lyons resigns as NIC attorney	X	X			X		X	X
December 5, 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.	X	X					X	X
December 8, the NIC Board of Trustees placed NIC President Swayne on administrative leave and ordered him off campus.	X	X	X	X	X		X	X
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.”	X	X	X	X	X		X	X
December 10, Dr. Sebaaly reportedly turned down the NIC Board’s offer to return as acting president.		X	X					
December 10, Dr. Lloyd Duman and Ms. Sarah Garcia were named by the NIC Board as acting Co-CEOs.		X	X					
December 16, President Swayne filed a lawsuit against NIC asking for declaratory relief for breach of his employment agreement.	X	X	X	X	X		X	X
December 16, <i>The NWCCU Executive Committee met 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.</i>								

Timeline of events listed by NWCCU	Risk 1 Lawsuits	Risk 2 Leadership	Risk 3 CEO	Risk 4 Enrollment	Risk 5 Exodus	Risk 6 Athletics	Risk 7 No Confidence	Risk 8 Finances
December 17, NWCCU sent a letter requiring a response no later than January 4, 2023. It was sent to Acting Co-CEOs Duman and Garcia.	X	X	X	X	X		X	X
December 20, former Coeur d’Alene City Attorney Michael Gridley filed a lawsuit against NIC Trustees McKenzie, Banducci, and Waggoner, and NIC Attorney Macomber.	X	X						X
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.	X	X	X					X
December 21, 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.	X	X	X	X	X		X	X
December 21, the NIC Board named Dr. Greg South as interim president at the same time President Swayne remained on administrative leave.	X	X	X	X	X	X	X	X

Section II.

Response: NIC's Response to the Eight Viability Risks

It is important to note that while we discuss each of the risks individually, the reality is that many are intertwined, and thus, it is challenging to address them in isolation. Rather than restating each risk multiple times, we cross-reference when appropriate.

Risk 1: Three lawsuits, one settled and two active.

Problem Statement: Over the past two years, the NIC Board has taken actions that have resulted in several lawsuits, one of which is settled while two remain active. Of particular note, none of the pending lawsuits seek financial damages or financial settlements. However, the cost of litigation may impact the college's ability to manage the current budget and planning of future budgets.

Board Events:

The Board took the following actions from September 22, 2021, to December 8, 2022, that have led to litigation against the college:

- September 22, 2021:
 - Terminated President MacLennan without cause on a 3 to 2 vote.
- December 5, 2022:
 - Voted on [Resolution 2022-03](#) to suspend Continuous Professional Service contracts and New Legal Services [Policy 7.01.04](#) and [Resolution 2022-04](#) to suspend Filling of New and Vacant Positions [Policy 3.02.03](#), Board and College Governance in Relation to Creation, Revision, or Elimination of College Policy and Procedure [Policy 2.01.04](#), and Presidential Authority and Responsibility [Policy 2.02.01](#). The Board then hired attorney Art Macomber to serve as college counsel without properly vetting his qualifications, consulting with the full board or following [Policy 7.01.04](#). *(These Board decisions, allegedly taken without proper public notification, were later identified as a violation of Idaho Open Meeting Laws.)*
- December 8, 2022:
 - Placed President Swayne on administrative leave on a 3 to 1 vote on the recommendation of newly appointed legal counsel (Trustee Corkill was absent). See [Board Minutes, December 8, 2022, p. 2](#)
 - January 6, 2023:
 - Newly appointed legal counsel issued 17 subpoenas to NIC employees, former trustees, and former attorney.
 - February 22, 2023:
 - Following an earlier ruling by the court to grant motions to quash three of the subpoenas, all remaining subpoenas were withdrawn by attorney, Bret Walther, appointed by NIC's insurance company to represent NIC as lead legal counsel on the case.

- December 21, 2022:
 - Acted to “cure” Idaho Open Meeting Law violations from earlier meetings that had the effect of (1) reinstating President Swayne, (2) canceling the hiring of attorney Macomber as NIC’s legal counsel, and (3) restoring several suspended policies. However, immediately afterward “curing” Idaho Open Meeting Law violations, the board acted to once again place President Swayne on administrative leave for no disciplinary reason, and once again hire attorney Macomber as NIC’s legal counsel, retroactive to his original date of hire of December 5, 2022. See [Board Minutes, December 21, 2022, p. 3-4](#)

Effects of these Board Events:

These board events: the termination of President MacLennan without cause and the decision to later place President Swayne (hired through an inclusive search process with relevant stakeholders) on administrative leave, resulted in the college becoming involved in lawsuits:

- The Board of Trustees chose to execute a clause in President MacLennan’s contract where he received a year’s salary and benefits for dismissal without cause. The termination of President MacLennan was the direct cause of a lawsuit which was settled on January 6, 2022. The lawsuit was dismissed with prejudice and without admission of wrongdoing. Dr. MacLennan received a settlement payout from the insurance company. (See Risk 8)
- This board decision led to votes of no confidence in the board by faculty, staff, and Associate Students of North Idaho College (ASNIC). (See Risk 7)
- Board events on December 5 (Resolutions to reduce President Swayne’s authority) and 8 (placing President Swayne on administrative leave) resulted in a lawsuit President Swayne filed on December 16, 2022, asking the court for declaratory relief for breach of his employment agreement. President Swayne claimed he was wrongfully placed on administrative leave by the board on December 8, 2022, and again on December 21, 2022. He asked for a preliminary injunction hearing to prevent NIC from making organizational changes while his lawsuit is pending. The hearing for the preliminary injunction was on February 24, 2023. See Resolutions [2022-03](#) and [2022-04](#), [Board Minutes, December 8, 2022](#), [lawsuit](#), [injunction](#) and [injunction decision](#)
- As a result of the events during the December 5, 8, and 10 Board meetings, a [lawsuit](#) was brought forth by former Coeur d’Alene City Attorney Mike Gridley on December 20, 2022. The lawsuit was [amended](#) on January 10, 2023, to include the events of the December 21 Board meeting. The lawsuit makes multiple allegations of the board, its newly appointed legal counsel, and Interim President South, alleging that the defendants are guilty of the following actions that have damaged Gridley and all other taxpayers in Kootenai County:
 - Breach of fiduciary duties;
 - Improper expenditure of public funds;
 - Violation of Idaho Open Meeting Laws;
 - Engaging in fraudulent misrepresentations;
 - Entering into illegal employment contract for “interim president”;
 - Violation of attorney ethical, fiduciary and competency rules of the Idaho Rules of Professional Conduct for lawyers;
 - Unjust enrichment of illegally hired employees and attorney.

Discussion:

Two lawsuits were directly caused by the current board whose actions, under the advisement of newly appointed college counsel, were taken on December 5, December 8, December 10, and December 21. While none of the pending lawsuits

are asking for financial settlements, the cost of litigation is not budgeted and therefore impacts the institution's ability to manage its financial resources. (Eligibility Requirement 19 - Financial Resources and Planning, and Standards 2.E.2 Financial Planning and 2.E.3 Financial Resources):

- The MacLennan lawsuit was cited as one of several reasons NIC's insurance carrier, Idaho Counties Risk Management Program (ICRMP), chose not to renew coverage after the policy expired on June 30, 2022. ICRMP did extend coverage until September 30, 2022 in order to give NIC extra time to secure another carrier from the open market. NIC found other carriers; however, while the total comprehensive cost of coverage under ICRMP was \$321,000 per year, on the open market it has increased to \$1,100,000. (Risk 8) See [ICRMP Executive Director Letter to NIC Attorney](#), [ICRMP Letter](#) and [ICRMP Extension Letter](#)
- The college experienced declining donor support which harms the Development Department's ability to support the college through grants, scholarships, and program support. (Risk 8)

Evidence of Progress:

Both the board and the college have recently engaged in actions to reverse and/or mitigate the effects of the lawsuits. The following actions have been taken by the board and college as initial steps toward bringing the college into compliance with NWCCU Eligibility Requirements and Standards:

- On March 6, 2023, the board acted on the court's decision to grant the preliminary injunction to reinstate President Swayne as the active President for the duration of the litigation with full operational authority. See [Memorandum Decision p. 40](#).
 - The board's reinstatement of NIC's permanent president has, in practice, resolved the problems outlined in Risks 2 and 3 (see below) for the foreseeable future by reinstating a president who was hired through an [inclusive search process](#) with [relevant stakeholders](#) on the search committee. (Eligibility Requirement 10 Chief Executive Officer, and Standards 2.A.3 Employment of CEO and 2.A.4 Consideration of Views of Constituency Groups with Decision-Making Processes)
 - The injunction [decision](#) is just the first step in the Swayne lawsuit. The actual court hearing is scheduled for October 16, 2023. This future date allows ample time for the college and board to continue repairing relationships, building enrollment, rebuilding community trust, and improving overall communication.
 - By reinstating President Swayne, in practice, NIC is in compliance with the NWCCU Eligibility Requirement 10, Chief Executive Officer: The Institution employed a qualified chief executive officer who is appointed by the governing board and whose fulltime responsibility is to the institution, and Standard 2.A.3 Employment of CEO. However, the board needs to resolve the interim president issue.
- To reduce the risk of future litigation, the college issued two RFQs for professional legal services. While neither attempt to procure legal services has resulted in a permanent solution, it is a significant step forward for the college. At the direction of the board, the college is directly soliciting qualified law firms for representation. The search for permanent legal-council continues. See [RFQ 22-01R](#) and [Board Minutes, December 21, 2022, p. 3-4](#) (Eligibility Requirements 8-Institutional Integrity and 9-Governing Board, and Standards 2 preamble Commitment to Inclusive Governance and Decision Making, 2.A.1 Effective Governance Structure, 2.A.4 Consideration of Views of Constituency Groups with Decision-Making Processes, 2.D.3 Conflict of Interest, and 2.E.3 Management of Financial Resources)

- The Interim President sent NWCCU two letters in February updating the commission on recent opportunities in which the NIC Board participated in constructive, meaningful training in an effort to fulfill its governance responsibilities outlined by the NWCCU Standards and Eligibility Requirements. The activities included:
 - Weekly Individual Board Member meeting with an independent contractor who has experience consulting for the ACCT, that occurred during January.
 - Board training session with Attorney General’s office while in Boise focusing on the [Idaho Open Meetings Law Manual](#)
 - Board training session with the Executive Director of the Idaho State Board of Education regarding the relationship between the Idaho State Board of Education and the North Idaho College Board of Trustees.
 - Individual meetings with all Board members, the independent contractor, and the Interim President while in Boise.
 - An initial formal training session with the independent contractor, including topics of board policy, accreditation, planning, finances, and a preview of best practices in governance from the textbook *Trusteeship in Community College, A Guide for Effective Governance*, published by the Association of Community College Trustees.
 - Two Trustees met with the independent contractor, to start editing Board policies together, and will resume shortly. *See NIC Letters to NWCCU, [February 2, 2022](#) and [February 8, 2022](#)*
- The board and President have worked together to engage consultants from the Association of Community College Trustees (ACCT) to educate and develop the board to make well-advised decisions, improve overall governance, and address the issues identified in the active lawsuits. Each board member has committed to participate in twice monthly meetings for 6 to 8 months with the consultants and to monthly workshops with the full board and President. This commitment to training by the board is an initial and crucial step in the development of the board to improve communication and governance. *See [ACCT Board Development Agreement](#) and [Calendar of Activities](#) (Eligibility Requirements 2, Operational Focus and Independence, 9 Governing Board, Eligibility Requirement 22 Relationship with NWCCU, and Standard 2.A.1 Effective Governance Structure)*
- While there is no evidence of board action, on March 17, 2023, the insurance appointed attorneys filed a motion asking the court to reconsider the decision of March 3, 2023, to reinstate President Swayne. The hearing on this matter is scheduled for March 31, 2023.

Risk 2: Frequent changes in leadership with little to no input from relevant stakeholders, without following institutional policies and procedures.

Problem Statement: The board actions demonstrate a lack of appreciation for the cascading effects of frequently changing presidents, especially decisions with little to no input from relevant stakeholders.

Board Events:

The board made the following decisions between September 21, 2021, and March 6, 2023, that have led to frequent changes in college leadership:

- September 23, 2021:
 - Terminated President MacLennan without cause.
- September 24, 2021:
 - Appointed Dr. Lita Burns, (NIC Vice President for Instruction) as Acting President.
- November 10, 2021:
 - Appointed Dr. Sebaaly (NIC Wrestling Coach) as Interim President, without relevant stakeholder input or an inclusive search process.
- July 14, 2022:
 - Hired Dr. Nick Swayne by a 3 to 2 board vote after going through a nationwide, inclusive search with input from relevant stakeholders. See [Committee Composition](#) (The hiring of a permanent president was a requirement of the NWCCU to comply with the Warning sanction of April 1, 2022.)
- December 8, 2022:
 - Placed President Swayne on administrative leave on the advice of the newly appointed attorney. See [Board Minutes, December 8, 2022](#)
- December 10, 2022:
 - Acknowledged Dr. Lloyd Duman, Interim Provost, and Sarah Garcia, CFO, as Acting Co-CEOs. See [Board Minutes, December 10, 2022](#)
- December 21, 2022:
 - Acted to “cure” alleged Idaho Open Meeting Law Violations and actions that occurred on December 5, 8, and 10. The December 8 meeting placed President Swayne on administrative leave and considered hiring former Interim President Sebaaly to serve as Interim President again—noting that this action at the December 8 meeting failed to state an emergency and was not taken with a roll call vote, as required by Idaho Open Meeting Laws. See [December 8 meeting materials](#) and [Board Minutes, December 21, 2022, p3-4](#)
 - Removed President Swayne from administrative leave then placed President Swayne back on administrative leave.
 - Hired Dr. Greg South as Interim President without relevant stakeholder input or an inclusive search process.
- March 6, 2023:
 - After receiving a court decision that granted Dr. Swayne’s preliminary injunction motion, the board reinstated him as the college’s active president with full operational authority.
 - Placed Interim President South on paid administrative leave with continued access to his email account.

Effects of Board Events:

The decisions made at these board meetings have led to frequent changes in college leadership. The effects listed below show the cascading impact that confusing, conflicted board governance missteps have had on NIC.

- Three lawsuits. (See Risk 1)
- A sanction of Warning from NWCCU, April 1, 2022:
 - The NWCCU concluded that NIC was out of compliance with Eligibility Requirement 9 –Governing Board, and Standards 2.A.1 Governance and 2.D.2 Institutional Integrity.
- Multiple votes of no confidence from faculty, staff, and Associated Students of North Idaho College (ASNIC). (See Risk 7)

- Creation of a leadership crisis in that the college effectively has two presidents with identical duties. (See Risk 3)
- Potential long-term financial consequences such as continued increased costs for liability insurance and increased cost of borrowing for future capital projects. (See Risk 8)

Discussion:

Board actions in terminating the President (MacLennan), placing the President on administrative leave (Swayne) and hiring two Interim Presidents (Sebaaly and South) without following established process for ensuring appropriate qualifications or including input from relevant stakeholders has created uncertainty and disruption that have a negative cascading effect throughout the college (students, faculty and staff), community partners, donors and significant cost.

Confusion and uncertainty about campus leadership stability has been widespread during this time. The arrival of NWCCU’s Show Cause sanction letter on February 9, 2023, made it clear that swift action and cooperation were needed above all else.

Evidence of Progress:

The board reinstated President Swayne as the active Chief Executive Officer of the college on March 6, 2023. See [Draft Board Minutes, March 6, 2023](#). His reinstatement marked a critical turning point and set the precedent for compliance to be demonstrated over time.

While reinstating President Swayne is an initial step, it is a significant step. However, the ultimate objective is to have the board fully realize the cascading effects of not following the NWCCU’s Eligibility Requirements and Standards, and NIC’s best practices to hire, terminate, place on administrative leave, and appoint an interim president.

Therefore, the board and administration have taken and/or have committed to take the following actions in order to come into compliance with Eligibility Requirements 9 - Governing Board, and 10 - Chief Executive Officer and Standards 2.A.1 Effective Governance Structure, 2.A.2 Effective System of Leadership, and 2.A.4 Consideration of Views of Constituency Groups with Decision-Making Processes:

- The board and President are working together with consultants from the Association of Community College Trustees (ACCT) to educate and develop the board to make well-advised decisions and improve overall governance. As stated above, each board member has committed to participate in twice monthly meetings for 6 to 8 months with the consultants and to monthly workshops with the full board and President. Thus far, the board members have met all their obligations, attended all scheduled training, and committed to the first in-person workshop scheduled for April 15, 2023. This commitment to training by the board is a crucial step in the development to improve communication and governance. See [ACCT Board Development Agreement](#), [Formative Evaluation from ACCT Consultants](#), and [Calendar of Activities](#) (Eligibility Requirements 2, Operational Focus and Independence, 9 Governing Board, Eligibility Requirement 22 Relationship with NWCCU, Standards 2.A.1 Effective Governance Structure, and 2.D.2 Ethical Standards)
- The administration has learned from this experience that a clear policy and procedure on hiring an interim president is needed to more fully adhere to NWCCU Eligibility Requirement 10 and Standard 2.A.2 and 2.A.4. This is a direct, positive institutional outcome that has arisen from the turmoil and that will help prevent such problems down the road.

- The administration and the board will work with the ACCT consultants to develop a policy on hiring interim positions, particularly external interims:
 - The college has received [draft policy language](#) from ACCT to address the hiring of interim presidents. It will be submitted to the board for consideration. (Eligibility Requirement 10 and Standards 2.A.2 and 2.A.4).
-

Risk 3: 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.

Problem Statement: Recent board actions have created uncertainty as to who is the college’s Chief Executive Officer. In the Interim President’s contract, drafted by newly appointed college counsel, there was no exit provision included should President Swayne return from administrative leave. The board has not acted to end Interim President South’s employment. Therefore, the college essentially has one active president (Dr. Swayne), and one on paid administrative leave (Dr. South), with identical job descriptions.

Board Events:

The board made the following decisions between December 8, 2022 and March 6, 2023. The action to place President Swayne on administrative leave and the subsequent decision to hire an interim president put the college out of compliance with NWCCU Eligibility Requirements and Standards:

- December 8, 2022:
 - Board placed President Swayne on administrative leave.
- December 21, 2022:
 - After the “curing” of the Idaho Open Meeting Law violations from the December 8, 2022, meeting, the board again moved to place President Swayne on administrative leave.
 - Board hired Dr. Greg South as interim president without relevant stakeholder input. The contract developed for Dr. South did not adequately distinguish the role of the interim president or provide provisions for the transition in the event President Swayne returned from administrative leave. The contract for Interim President South continues through June 2024. See [Interim President’s Contract](#)
- March 6, 2023:
 - Board reinstated President Swayne after receiving a court decision that granted his preliminary injunction motion and reinstated him to be the active president with full authority.
 - Board placed Interim President South on paid administrative leave effective immediately with continued active email access and without a change to his contract end date or a change to his defined responsibilities.

Effects of the Board Decisions:

The effects of placing President Swayne on administrative leave and hiring an interim president present the college with the following risks to long-term viability in at least two areas; likewise, these events are listed as concerns that need to be addressed to maintain compliance with NWCCU standards:

- Financial sustainability, paying two presidents. While the college remains financially capable of sustaining this situation, it reduces the funds available through salary recovery to address employee recruiting and retention options. (See Risks 5, 8)
- By Tuesday morning, March 7, 2023, it was clear to the campus, the board, and the community that President Swayne was the president of the college. However, the existence of an interim president on administrative leave creates ongoing uncertainty about the reason behind that board decision and does not present enough clarity within the college and local community. (See Risks 5, 7)

Discussion:

The court decision, issued on March 3, 2023, called for the immediate reinstatement of President Swayne, stating “While NIC may certainly hire someone to fill a temporary vacancy, Idaho Code [§33-2109](#) does not permit NIC to hire a second, permanent president with responsibilities that are virtually identical to the first president’s responsibilities” and that “[t]he court finds that, as the Chief Executive Officer of NIC, Dr. Swayne has a unique interest in the overall well-being of the institution. He is contractually authorized and responsible for the administration... and has authority over all matters affecting NIC at the operational level” See [Memorandum Decision p. 40](#).

There was uncertainty and confusion about the CEO position when the board placed President Swayne on administrative leave on December 8, 2022. Because the board had not issued guidance on December 8 as to the transition, Sarah Garcia and Lloyd Duman agreed to step into the role on a temporary basis until December 21, when the board hired Dr. South as interim president. However, given that the board continues to employ an interim president on paid administrative leave after reinstating President Swayne, increased costs and a lack of clarity persist.

The frequent transitions in presidents and the continuing uncertainty related to continuing the employment of both a president and an interim president have significant negative impact on the college including risk to accreditation and enrollment and uncertainty among students, employees, donors and community partners.

Evidence of Progress:

Though Dr. South remains on paid administrative leave, per his original contract arrangements with the board, Dr. South is not acting in any capacity as president and there is no leadership confusion on campus now that Dr. Swayne has returned. The issue of Dr. South’s continued paid interim contract must be resolved by the Board of Trustees.

Although the board and administration have taken steps to come into compliance with NWCCU Eligibility Requirement 10 – Chief Executive Officer and Standard 2.A.3 Employment of Chief Executive Officer, as the examples below demonstrate, because the board did not take action to terminate the interim president’s contract, we recognize that we are not yet in full compliance.

- On March 6, 2023 the Board acted to reinstate President Swayne. The Board of Trustees and community fully recognize President Nick Swayne as president of the college. However, the fact that the board did not terminate the interim president’s contract and, instead, put him on paid administrative leave continues the increased costs and palpable sense of anxiety within the college and local community. See [Board Minutes, March 6, 2023](#)

- The board is actively engaged with consultants from ACCT to understand its role in order to seek a resolution to this matter. See [ACCT Board Development Agreement](#) , [Calendar of Activities](#), and [Formative Evaluation from ACCT consultants](#)
 - President Swayne is receiving professional coaching with Association of Governing Boards (President Swayne’s contract with AGB will be provided when it is completed) to help organize reports to the board.
-

Risk 4: Declining enrollments, including termination of partnership with STEM Charter Academy, with concomitant reduction in tuition revenue.

Problem Statement: Board actions that have resulted in a risk to NIC’s accreditation have raised concerns with the college’s educational partners, students, and parents who are concerned about the validity, transferability, and acceptance of credits and degrees.

Board Events:

The board made the following decisions between December 8, 2022 and March 6, 2023:

- December 8, 2022:
 - Placed President Swayne on administrative leave.
- December 21, 2022:
 - After the “curing” of the Idaho Open Meeting Law violations from the December 8, 2022, meeting, again took action to place President Swayne on administrative leave.
 - Hired Dr. Greg South as interim president without relevant stakeholder input. The contract developed for Dr. South by Art Macomber did not adequately distinguish the role of the interim president or provide provisions for the transition in the event President Swayne returned from administrative leave.
- March 6, 2023:
 - Reinstated President Swayne after receiving a court decision that granted his preliminary injunction motion and reinstated him to be the active president with full authority.
 - Placed Interim President South on paid administrative leave effective immediately with continued active email access and without a change to his contract end date or a change to his defined responsibilities.

Effects of Board Events:

While these board decisions are not the direct cause of all declining enrollments, the cumulative actions by the board listed above have resulted in declining confidence among community members, particularly parents of dual credit students and dual credit students themselves.

- Although enrollment trends at community colleges are down nationwide, board governance and accreditation concerns are continuing to negatively impact overall NIC’s enrollments.
- STEM Charter Academy stopped teaching NIC courses on their campus beginning Spring 2023, and is creating a plan to do the same for Fall 2023, in the event NIC receives an adverse accreditation outcome. Several other area

high schools have also expressed concern and are making plans for alternative dual credit course delivery in case the college receives an adverse action. See STEM Charter Academy in Evidence of Progress below.

- Lakeland School Board, at their February 13, 2023 meetings, discussed other options for dual credit for their students. See *Lakeland Joint School District, [Board Minutes, February 13, 2023, p.1](#)*
- A loss of dual credit partners and students has the potential to be an additional financial risk to the college since dual credit contributes over a million dollars to the NIC budget (See Risk 8).
- In response to the Show Cause Sanction Letter, Programmatic accrediting agencies and State Departments for many of the Health Professions programs have inquired about the impact of the governance concerns on these specialized programs. For instance, the Joint Review Committee on Education in Radiography Technology (JRCERT) conducted an unannounced site visit on February 27-28, 2023. JRCERT issued a [report](#) of that visit.

Discussion:

Several area high school districts and charter schools have expressed concern about the viability of NIC maintaining accreditation; however, for the present, the STEM Charter Academy is the only area school that has moved to reduce its involvement with NIC. STEM Charter Academy's departure signals to NIC that there is similar viability concern in the broader educational community. All of our dual credit partners are watching closely to see the outcome of the NWCCU Show Cause sanction.

Evidence of Progress:

We see declining enrollments as primarily an issue for the administration. While there are accreditation concerns among our community partners, the blame should not rest solely on recent board actions. The administration began taking aggressive actions during fall 2022 to increase enrollments resulting in demonstrable improvement in key performance indicators. Below are examples of the college's work and evidence of early success in increasing enrollments (Eligibility Requirement 11, and Standards 1.B.2 Monitoring Environments, 2.A.2 Effective System of Leadership, and 2.E.3 Financial Resources):

- Despite a general downward trend, there are indications of that the resilience and determination of the faculty and staff to address these trends has had a positive impact. The growth in net applications reflect the strategic recruiting efforts and process improvements during the fall 2022 semester. Dual credit enrollment and persistence (fall to spring) have improved significantly from the prior year. See [Spring 2023 Enrollment Report](#)
- NIC's peer group for IPEDS consists of 21 colleges with similar characteristics mainly from the region. Three of the 21 institutions are up in total enrollment from 2012 to 2021. The overall combined total enrollment for the peer group has trended negative over the past decade, especially after the COVID-19 pandemic. Since 2019, NIC's enrollment has trended downward (9.6%) as compared with the IPEDS peer group (13.3%). These data indicate that NIC is performing on-par or better than our peer group on general enrollment trends. See [NIC and Peer Group Enrollment Chart](#)
- Increasing enrollment was President Swayne's highest priority when he arrived in August 2022, and upon his return on March 6, this remains a top priority. The college had early evidence that the efforts identified above would be and are effective in this region. As a result of this concerted effort in the fall of 2022, enrollment for dual credit increased 3% over the previous year. See [Fall 2022 Enrollment by Student Type Slide](#)

Although the issue of enrollments is not resolved and will not be in the short-term, during Dr. Swayne’s tenure so far, the college demonstrated success in improving overall student enrollment, which mitigates the long-term concerns regarding tuition revenue. Results from the efforts cited above indicate that given the opportunity, the college clearly has the potential to reverse the declining enrollment trends.

In relation to board decisions that have created uncertainty among community partners, the board and administration have taken and/or are committing to take the following actions in order to come into compliance with NWCCU Eligibility Requirements 8 – Institutional Integrity, 11 – Administration, 18 – Public Information, and Standards 1.B.4 Monitoring of Internal and External Environments, 2.A.2 Effective System of Leadership, 2.D.1 Clear and Accurate Publications, and 2.D.2 Ethical Standards. Below are examples of several recent actions taken:

- On February 22, 2023, the Board, in a 5-0 vote, approved a [statement on accreditation](#). (Eligibility Requirements 2 – Operational Focus, and 22 – Relationship with NWCCU)
- Since Dr. Swayne’s reinstatement, NIC has been aggressively reaching out to high schools, dual credit, and business community partners to address and reduce level of concern. Below is a list of actions taken immediately after President Swayne’s reinstatement:
 - Tami Haft, Dean of Enrollment Services sent out 2,231 NIC Foundation scholarship [letters](#) on March 7, 2023, to all area high school seniors. NIC is streamlining multiple application processes to reduce barriers for students. For example, the barrier of requiring placement scores was dropped allowing additional students to enroll. There are more additional students eligible to register compared to the same time last year. See [Fall Enrollment Slideshow](#)
 - President Swayne, Interim Provost Duman, and Interim Dean Harris met with Region I high school principals on March 9, 2023, to discuss their accreditation concerns.
 - President Swayne and Interim Associate Dean Gail Ballard met with leaders of the Coeur d’Alene Tribe on March 10, 2023, to address concerns and restore confidence. See [Meeting Notes](#)
 - On March 15, 2023, President Swayne and Math, Computer Science, and Engineering Division Chair Damian Caires met with STEM Charter Academy Principal Scott Thomson and Secondary Program Director Deb Pence to discuss their relationship with NIC. Due to this visit, STEM Charter is reconsidering its partnership with the NIC dual credit program. See [STEM Charter Academy Letter](#)
 - NIC Instructional Leadership will be holding a townhall with dual credit students and parents in April. NIC will also host “Counselor Days” on April 21, 2023, an annual event with the high school counselors from across the region to discuss accreditation.
 - President Swayne reactivated the recruitment team of 20 employees, including faculty, staff, department heads and college leadership that was formed in 2021. See [Recruitment Team Minutes](#), [Calendar and Operating Procedures](#), [Running Record of Engagements](#), and [Membership List](#)
 - President Swayne has reactivated the college’s retention team whose focus is on our First-year Experience (FYE) program. See [Accreditation Summary for FYE](#)

- Multiple targeted retention efforts at the residence hall – these students were identified as having achievement gaps in our student learning outcomes assessment data See [GEM I Learning Improvement Story](#)
- College leaders and representatives are actively reaching out to school district superintendents, principals and charter school administrators, students, parents, and business and community leaders to ask for their help in rebuilding relationships and trust by fully explaining the accreditation situation and building confidence. Results of these efforts include:
 - NIC is establishing a priority partnership with Timberlake High School to teach multiple dual credit classes (in progress).
 - All four regional chambers of commerce hosted an accreditation focus group at NIC on March 16, 2023. Approximately 20 NIC employees hosted round-table discussions and a Question-and-Answer session to talk about the issues of accreditation. Over 100 community members attended. See [Chamber Invitation](#)
 - Meetings with business and community leaders have produced and retained partnerships with Workforce Education programs. NIC’s Workforce Training Center received a [commendation](#) from the 2020 Year Seven Visit for the delivery of non-credit programs to the community.
 - NIC is hiring a student recruiter whose primary focus will be on non-traditional apprenticeships so students can earn while they learn. Applications close March 31, 2023. See [Workforce Training Center Job Posting](#)

Risk 5: Continued exodus of faculty, staff, and senior administrators.

Problem Statement: Board actions have led to NWCCU’s sanctions and a threat to NIC’s accreditation. These events, including the transitions of presidents, have created a level of uncertainty among faculty and staff which, in turn, has led to a number of employees choosing to leave NIC.

Board Events:

The board made the following decisions between December 5, 2022 and December 21, 2022:

- December 5, 2022:
 - Voted on [Resolution 2022-03](#) (December 5, 2022) to suspend Continuous Professional Service contracts and New Legal Services [Policy 7.01.04](#) and [Resolution 2022-04](#) to suspend Filling of New and Vacant Positions [Policy 3.02.03](#), Board and College Governance in Relation to Creation, Revision, or Elimination of College Policy and Procedure [Policy 2.01.04](#), and Presidential Authority and Responsibility [Policy 2.02.01](#).
 - Hired attorney Art Macomber to serve as college counsel, without properly vetting his qualifications or consulting with the full board to define a process, against the advice of President Swayne.

- December 8, 2022:
 - Placed NIC President Swayne on administrative leave.
- December 10, 2022:
 - Dr. Sebaaly reportedly turned down the NIC Board’s offer to return as acting president.
- December 21, 2022:
 - 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 college counsel, 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. *See [Resolution 2022-03](#)* (December 21, 2022)
 - Named Dr. Greg South as interim president at the same time President Swayne remained on administrative leave.

Effects of Board Events:

These actions taken by the board have had a negative impact on employees of the college. Below are some examples of the impact:

- Uncertainty among faculty and staff regarding their future livelihood has led some to seek other employment.
- Increased turnover, vacancies and challenges in filling positions to fulfill the college’s mission. *See [Employee Terminations \(turnover\) FY2018-2023](#)*
- Increased cost to recruit, onboard and train new employees. The Society of Human Resource Management (SHRM) estimates the cost to replace an employee to be 6-9 months of salary. The contract with AGB for the search for a Vice President for Instruction and Student Affairs position was \$48,000 and due to resolution 2022-04 we were not able to complete the selection and hiring process. *See [AGB CAO Search Contract](#)*
- Increased stress on employees and mistrust with the college attorney by some who received subpoenas.
- Loss of institutional knowledge.
- Increase in stress and anxiety, and a decrease in morale among employees. Of all employees accessing the Employee Assistance Program (EAP) in 2022, “Work Stress/Strain/Change was tied for the most common primary presenting problem in employees accessing the EAP, increasing 15 percentage points over 2020.
- Increase in workload for remaining employees.

Discussion:

The college continues to experience high rates of turnover. While President Swayne, senior leaders, and Human Resources continue concerted efforts to retain employees, those efforts are countered by the continued governance issues and accreditation risk—which create ongoing uncertainty. As seen in the table below, faculty and staff are departing from NIC at rates significantly higher than historic norms, prior to FY21. Senior administrators report significant numbers of staff and faculty who are currently in the job market or are making plans to leave mainly because of the governance issues and uncertainty of NIC’s accreditation. These risks are perceived by many employees as a threat to their job security.

There are additional external factors that contribute to the increase in turnover, including a strong labor market (signaled by increasing pay and decreasing unemployment), continued high cost of housing in the region, and local turmoil in the community regarding the climate around public education.

NIC’s employee departure rates have been trending upward since FY2020.

National Community College Benchmarking Program (NCCBP) Departure Rates

NCCBP – Percent of departures per total of full-time regular employees			
Academic Year	NIC Reported Rates	Departures from NIC	Full-time Employees
2021-2022	18.32%	85	464
2020-2021	9.32%	45	483
2019-2020	5.91%	30	508
2018-2019	6.57%	33	502
2017-2018	10.49%	47	448

College and University Professional Association for Human Resources (CUPA-HR) institutional benchmarking report for all 2-year institutions.

CUPA-HR institutional benchmarking report – All 2-year institutions								
Turnover Rates								
	Full Time Staff - Exempt/Non-Exempt				All full-time faculty			
Academic Year	NIC	Median	Average	N	NIC	Median	Average	N
2022-2023	23.36/30.2	16.26/17.15	17.37/17.93	52/52	13.48	8.32	9.45	56
2021-2022	9.47/23.3	13.95/14.89	15.67/16.22	58/56	13.99	7.14	8.59	63
2020-2021	15.16/17.84	10.89/12.77	11.76/12.39	92/89	9.0	7.58	7.52	96
2019-2020	14.6/17.5	10.7/10.9	11.4/16.9	134/127	6.8	7.3	7.9	123
2018-2019	9.0/14.9	13.2/13.6	13.2/13.9	123/123	6.3	7.7	8.0	111

Of the 30 employees who chose to complete NIC’s voluntary exit survey since its implementation mid-August 2022, 17 benefits-eligible employees elected to leave comments through the anonymous exit survey system from December 2022 through this writing. Of those, 58% cited issues related to governance and accreditation as the primary reason for their departure.

Evidence of Progress:

While several people have attributed their leaving to board actions, employees have cited different reasons for departing NIC as well. As cited earlier, the ACCT’s work in the areas of governance and communication with the board and the president will hopefully lessen the uncertainty and anxiety felt by a number of employees. The administration recognizes

the need to address the issue of employee retention as a priority as well. Consequently, the college administration has taken several steps to improve employee engagement and retention. Below are examples of recent actions as a part of the college's compliance with Eligibility Requirements 11 – Administration, and Standards 2.A.2 Effective System of Leadership, 2.E.2 Financial Planning, and 2.E.3 Financial Resources, and 2.F.3 Sufficient Qualified Staff to Meet Mission.

- Upon his return to campus on March 6, President Swayne sent a message to all employees inviting them to attend the previously scheduled employee appreciation lunch hosted by senior leadership later that day. President Swayne was welcomed at the event with two standing ovations, following which he expressed his appreciation for their unwavering dedication to students and implored employees to remain at NIC. See [Message from President Swayne](#)
- From the time of his reinstatement, President Swayne and administrators have spoken to many employees, individually and in groups, encouraging them to remain at NIC.
- President Swayne met with Faculty and Staff Assemblies on March 9, and shared his intent to increase compensation in FY24 by a minimum of 4%, equivalent to the state's Change in Employee Compensation (CEC), and his goal of increasing compensation by 8% for faculty and staff, which would keep pace with the increases in inflation and cost of living over the past year. The college worked with its benefits and insurance vendors to minimize the cost increases to employees for FY24, resulting in a medical insurance renewal with no plan changes and *no increase* in premiums. See [FY2024 Benefits Renewal Summary](#)
- NIC employees continue to seek and to be selected for new promotional and developmental opportunities through the established hiring process at higher rates than in the past. For the last three years, the college has filled 24-26% of benefitted positions with internal applicants, and is on track to do the same in the current year. As of this writing the college has filled 21% of benefitted positions in the current fiscal year with internal applicants.
- Additional access to professional development funds and opportunities have been provided in the current fiscal year as compared to prior years. To increase support to division chairs, and thereby improve support to faculty, all division chairs were provided the opportunity to attend The Chronicle's Strategic Leadership Program for Department Chairs. Seven division chairs elected to engage in this training, which occurred January 2023. See [Emails to Management Team Re: Group Professional Development Funds Available](#)
- Starting this year, the college has developed opportunities for training and supporting faculty. New Division Chairs met bi-weekly for training and support throughout the Fall semester. Starting Fall 2022, monthly First Year Faculty meetings have been held to provide training and support to new faculty at NIC. NIC hosted the inaugural Adjunct Appreciation and Information session event in Spring 2023. See [Email Invitation to Adjunct Appreciation Event](#)
- The college continues to seek ways to support employee wellbeing. In December 2022, Human Resources provided four webinars on financial wellness, human performance at work, burnout, and sleep and stress. See [Wellness Webinar Series Email](#), and [HR Portal-Wellness Webinars](#)
- Since the departure of senior leaders in January 2022, the college has worked to fill the following positions: President, Vice President for the Office of Finance and Business Affairs, Dean of Instruction – General Studies, and Dean of Enrollment Services. These searches were completed through the established hiring process, which included stakeholder input. In addition, NIC went through the full, established and inclusive search process to fill

the Vice President for Instruction and Student Affairs position. This search failed due to the initial passage of [Resolution 2022-04](#) on December 5, 2022. See [NIC Organizational Chart](#), and [List of Committee Members for Administrative Searches](#)

Risk 6. Decision with little to no input to expand athletics program and to change athletics conference with potential added costs.

Problem Statement: The board does not take into account the complexity of the standards, the requirements, the cost, and the laws involved in current collegiate athletics or the board’s role in the strategic direction of the college regarding athletics.

Board Events:

The board made the following decisions on December 21, 2022:

- The board passed two motions on December 21, 2022, about NIC’s intercollegiate athletic program.
 - The first motion directed the president to assess if it is feasible and reasonable that NIC return to the [Scenic West Athletic Conference](#) (SWAC) a member of the National Junior College Athletic Association (NJCAA). If the interim president’s recommendation is to move back to the NJCAA, then no further board action is needed to support this direction.
 - The second asked the interim president to review, consider, and make a recommendation regarding adding women’s wrestling for the 2023-2024 season, and stated that the board is willing to consider opening the budget to support this athletic improvement.
 - The board amended the first motion that their request of the interim president shall not interfere with the accreditation response and shall be only viewed as a tool to better the institution’s enrollment as a low-priority request at this time.

Effects of the Board Decisions:

The actions of the board started a process by the interim president to actively seek a change from the Northwest Athletic Conference (NWAC) to the Southwest Athletic Conference (SWAC) and an affiliation with the National Junior College Athletic Association (NJCAA). While the board directed the Interim President, Dr. South, to assess the feasibility and reasonability of returning NJCAA and the SWAC, without consulting the Office of Finance and Business or completing a comprehensive feasibility study, Dr. South and the interim dean, Dr. Forkum, Dean of Student Life, made an active effort to move from the NWAC to the SWAC and to the NJCAA. Below are the subsequent actions by the interim president:

- A letter dated January 19, 2023, signed by Interim President Dr. South was sent to Dr. Chris Parker, President & CEO of the National Junior College Athletic Association, requesting “at the direction of the North Idaho College Board of Trustees” that eight teams be readmitted with full standing into the NJCAA. See [NIC Letter to NJCAA](#)

- In a letter dated February 8, 2023, to Mr. Robert Nielson on NJCAA/SWAC Board of Regents, Interim President South asked if there could be a vote by the league member to allow NIC to rejoin the conference with winter sports. See [Letter to SWAC Board of Regents from NIC](#)

However, the Scenic West Athletic Conference membership made up of member institutions presidents and athletic directors, discussed NIC’s request:

- In a letter dated March 14, 2023, Dr. Dean Fisher, writing on behalf of the Scenic West Athletic Conference, stated that “The Scenic West Athletic Conference is open to a future entry of North Idaho College for the 2024-2025 season after the resolution of NIC's accreditation status.” See [SWAC Letter to NIC](#)
- On March 16, 2023, President Swayne spoke with Marco Azurdia, Executive Director of NWAC, to guarantee that NIC could remain in the NWAC through the 2024-2025 season. See [NWAC Weekly Newsletter](#)

Discussion:

The changing of athletic conferences has been an issue dating back to 2004. NIC has very strong athletic programs and robust support for these programs in the community. Although the college made an informed decision following extensive cost and impact analysis prior to changing conferences in 2014, some were not in agreement with the decision. There has been, in other words, a longer institutional conversation surrounding athletic conference changes than just the one in 2022-2023.

Evidence of Progress:

Risk six has been resolved: there are no current plans or a pathway for the college to transition the intercollegiate athletic programs from the NWAC to the NJCAA or to move to the SWAC:

- At the March 22, 2023 Board meeting, President Swayne shared with the Board the inability to switch athletic conferences. Given the charged nature of this topic, the board’s acceptance of this information--and their decision not to pursue it further—demonstrates significant progress, both on the issue of athletic conference change and, perhaps most importantly, progress indicating potential for future repaired relations between the board and the college president. (Eligibility Requirements 9 - Governing Board, 11 – Administration, 22 Relationship with NWCCU, and Standards 2.A.1 Effective Governance Structure)
- The board unanimously recognized in their December 21, 2022, meeting that there are higher institutional priorities than athletic conferences, including accreditation, enrollment, and maintaining financial stability. See [Board Minutes, December 21, 2022, p. 6](#) (Eligibility Requirements 2 – Operational Independence, 9 - Governing Board, 11 – Administration, and Standards 2.A.1 Effective Governance Structure)
- The college intends to continue to evaluate compensation, workload, and equity for coaches and all employees. (Standards 2.D.2 Ethical Standards, and 2.F.1 Conditions of Employment)

Now that the issue has been resolved for the short-term, the ACCT is working with the board to understand complexities of the standards, the requirements, the cost, the laws involved in the current collegiate athletics and the board’s role in the process. See [ACCT Board Development Agreement](#) and [Calendar of Activities](#) (Eligibility Requirement 9 Governing Board), and Standard 2.E.3 Financial Resources)

Risk 7. Multiple No Confidence Resolutions from the Associated Students of NIC, NIC Faculty Assembly, and NIC Staff Assembly.

Problem statement: The board does not acknowledge and/or respond to constituent concerns and resolutions.

Board Events:

The board made the following decisions between September 23, 2021 and March 6, 2023:

- September 23, 2021:
 - Terminated President MacLennan without input from any of the college’s constituency groups or community partners
- November 10, 2021:
 - Appointed Dr. Sebaaly as interim president, without input from any of the college’s constituency groups or community partners
- July 14, 2022:
 - Hired Dr. Nick Swayne by a 3 – 2 vote after going through a nationwide, [inclusive](#) search with input from relevant stakeholders. See [Committee Composition](#) (The hiring of a permanent president was a requirement of the NWCCU to comply with the Warning sanction of April 1, 2022.)
- December 8, 2022:
 - Placed President Swayne on administrative leave on the advice of the newly appointed attorney. See [Board Minutes, December 8, 2022](#)
- December 10, 2022:
 - Acknowledged Dr. Lloyd Duman, Interim Provost, and Sarah Garcia, CFO, as acting Co-CEOs
- December 21, 2022:
 - Acted to “cure” the alleged Idaho Open Meeting Law Violations and actions that occurred on December 8, 2022, that placed President Swayne on administrative leave and to consider hiring former Interim President Sebaaly to serve as Interim President again—noting that this action at the December 8 meeting failed to state an emergency and was not taken with a roll call vote, as required by Idaho Open Meeting Laws. See [December 8 meeting materials](#) and [Board Minutes, December 21, 2022, p3-4](#)
 - Removed President Swayne from administrative leave.
 - Placed President Swayne on administrative leave once more.
 - Hired Dr. Greg South as Interim President without relevant stakeholder input or an inclusive search process.
- March 6, 2023:
 - Reinstated President Swayne after receiving a court decision that granted Dr. Swayne’s preliminary injunction motion and reinstated him as the college’s active president with full authority.
 - Placed Interim President South on paid administrative leave with continued access to his email account.

Effects of the Board Decisions:

The board actions led to resolutions of no confidence by the primary constituency groups at the college:

- The resolutions of no confidence:
 - Faculty Resolutions of [February 2, 2021](#), [October 26, 2021](#), [March 14, 2022](#), [February 9, 2023](#), [February 16, 2023](#).
 - Staff Resolutions and Statement of [December 13, 2021](#), [February 23, 2021](#), [February 23, 2021 Statement](#), [March 23, 2022](#), and [December 14, 2022](#)
 - College Senate Statement of [March 3, 2021](#) and Resolution of [December 15, 2022](#).
 - ASNIC Resolution of [December 9, 2022](#).

Discussion:

Constituency groups (Faculty, Staff, and ASNIC) issued multiple no confidence votes beginning February 2021. These votes have taken place because of board actions that appear to violate NWCCU Eligibility Requirements and Standards, institutional policies, and state law—specifically actions taken beginning with the December 5, 2022, board meeting.

Evidence of Progress:

To fully repair the last two and a half years of governance events involves building trust with each of the constituency groups which will take time. Below include steps being taken by the board to acknowledge, respond to, and resolve the issues that have led to no confidence votes to bring the institution into compliance with Eligibility Requirements 8 – Institutional Integrity, and 9 - Governance:

- The board has made changes based on concerns cited in some of the no confidence resolutions; they include:
 - The board approved changes to the Board General Conduct [Policy 2.01.10](#), eliminating the vagueness of the policy that could result in community members and perhaps NIC employees circumventing policy and procedure and the chain of authority.
 - The board rescinded Resolutions [2022-03](#) and [2022-04](#) at the December 21, 2022 board meeting.
 - Within is power, President Swayne will address the unresolved concerns of the constituency groups and is committed to fostering a dialogue of open communication and respect between the board and the college community.

- The board is aware that there are unresolved concerns stated by the faculty and staff and are working with two ACCT consultants with the goal of understanding an appropriate means of acknowledging and responding to concerns and resolutions presented by NIC’s constituency groups. At the March 22, 2023 board meeting, Board Chair Greg McKenzie indicated that the board is working collaboratively and are hoping to share a response at the April board meeting. *See [Board Video, March 23, 2023, 43:15-45:43](#)*

- The no confidence issues and statements involve board governance. The board has committed to resolve these issues by working with the president and are also committed to training with ACCT to eliminate the reoccurrence of their previous actions and to adhere to NWCCU Eligibility Requirements 9 – Governing Board and Standards 2.A.1 Effective Governance Structure.

- The Faculty Assembly Passed a Resolution showing their support and encouragement with the reinstatement of President Swayne on March 21, 2023, and “implored” the board to work with the President in resolving the accreditation concerns. *See [Faculty Resolution of March 21, 2023](#) and [Board Video, March 23, 2023, 48:38-49:39](#)*

- President Swayne holds monthly meetings just prior to each board meeting with constituent group leaders to review and discuss the agenda and their individual reports to the Board of Trustees.

Risk 8. 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.*
- *Significant increased insurance costs with higher deductibles.*
- *Moody's Bond Rating Review for potential downgrade.*
- *Declining donor support.*

Problem Statement: Actions by the board have created a temporary strain on college financial resources for the current and potentially subsequent fiscal year(s). The cumulative impact of the actions of the board have also caused anxiety in external partners such as Moody's Investment and the college's risk management provider as to the college's ability to stay in its currently strong financial condition into the future.

Board Events:

The board made the following decisions between September 23, 2021 and March 6, 2023:

- September 23, 2021:
 - Terminated President MacLennan without input from any of the college's constituency groups or community partners.
- September 24, 2021:
 - Appointed Dr. Lita Burns, Acting President
- November 10, 2021:
 - Appointed Dr. Sebaaly as interim president, without input from any of the college's constituency groups or community partners.
- July 14, 2022:
 - Hired Dr. Nick Swayne by a 3 – 2 vote after going through a nationwide, [inclusive](#) search with input from relevant stakeholders. See [Committee Composition](#) (The hiring of a permanent president was a requirement of the NWCCU to comply with the Warning sanction of April 1, 2022.)
- December 5, 2022:
 - Voted on [Resolution 2022-03](#) to suspend Continuous Professional Service contracts and New Legal Services [Policy 7.01.04](#) and [Resolution 2022-04](#) to suspend Filling of New and Vacant Positions [Policy 3.02.03](#), Board and College Governance in Relation to Creation, Revision, or Elimination of College [Policy 2.01.04](#) and [Procedure 2.01.04](#), and Presidential Authority and Responsibility [Policy 2.02.01](#). The board then hired attorney Art Macomber to serve as college counsel, without properly vetting his qualifications or consulting with the full board to define a process.
- December 8, 2022:
 - Placed President Swayne on administrative leave on the advice of the newly appointed attorney. See [Board Minutes, December 8, 2022](#)
- December 10, 2022:
 - Acknowledged Dr. Lloyd Duman, Interim Provost, and Sarah Garcia, CFO, as acting Co-CEOs.

- December 21, 2022:
 - Acted to “cure” the alleged Idaho Open Meeting Law Violations and actions that occurred on December 8, 2022, that placed President Swayne on administrative leave and to consider hiring former Interim President Sebaaly to serve as interim president again—noting that this action at the December 8 meeting failed to state an emergency and was not taken with a roll call vote, as required by Idaho Open Meeting Laws. *See [December 8 meeting materials](#) and [Board Minutes, December 21, 2022, p3-4](#)*
 - Removed President Swayne from administrative leave.
 - Placed President Swayne on administrative leave once more.
 - Hired Dr. Greg South as interim president without relevant stakeholder input or an inclusive search process.
- March 6, 2023:
 - Reinstated President Swayne after receiving a court decision that granted Dr. Swayne’s preliminary injunction motion and reinstated him as the college’s active president with full authority.
 - Placed Interim President South on paid administrative leave with continued access to his email account.

Effects of the Board Decisions:

The biggest impacts of these recent board actions have been a reallocation of finances away from student-centered, educational expenditures to interim personnel salaries, increased costs for insurance and legal services.

- Despite the additional expenditures in the current fiscal year budget, the college has capacity to absorb the expenses due to salary savings from attrition. However, the college would have been able to allocate those salary savings to support educational programs and recruitment and retention for education programs had they not been used on interim personnel, insurance and legal services.
- The decline in enrollment both experienced and expected has placed a strain on the college’s ability to effectively build a balanced budget for next fiscal year. Current fiscal year tuition is over \$500,000 and 4,000 credits short of budget (or 5%) The college is forecasting another 5% decline for fiscal year 2024, creating a \$1M tuition revenue shortfall.
- While a lower bond rating will make it more expensive for the college to execute student-centered building projects due to increased interest rates, the college currently has no plans to issue additional debt for building projects. At this time, therefore, the impact is more reputational than financial. Currently, the [Dormitory Housing Commission of North Idaho College](#), a component unit of the college, holds the only debt related to the institution. The bond issue outstanding was used to construct the Student Wellness and Recreation Center and was issued for \$7.9M over 30 years. The debt service is supported exclusively from fees collected from students and is not a legal obligation of the college.
- State and federal grant funding agencies have expressed concerns about NIC’s future, and thus been reluctant to fund or partner with NIC on several grant programs.
- NIC is somewhat unique in that the foundation does not contribute to the college’s operating budget. However, declining donor support negatively impacts the Development Department’s ability to support the college through student scholarships and program support. The Development Department sees strong evidence supporters are poised to reinstate their levels of support once NIC’s period of instability and uncertainty is resolved.
 - Although reported donor and alumni concerns have spiked since Fall 2021, the Development Department and Foundation were successful in their 2021-2022 goals for external resource procurement.

- The continued instability and uncertainty at NIC are negatively impacting donor and grantor confidence; however, upon arrival of Dr. Swayne as NIC President, the level of donor and community engagement spiked and elevated supporter confidence in Fall 2022.

Discussion:

The increased expenditures related to interim personnel, legal fees and increased insurance premiums are covered by salary savings realized due to attrition and vacant positions. However, the actions of the board have removed the flexibility of the college to address Risk Number 5 and institutional priorities.

Fiscal Year 2023 Budgetary Impact			
	FY23 Budget	FY23 End of Year Forecast	Over (under) Budget
Legal Services	\$100,000	\$204,000	\$104,000
Liability and Property Insurance	\$515,000	\$1,200,000	\$685,000
President Salary and Benefits	\$355,607	\$616,000	\$260,393
Total Overspent Funds	\$970,607	\$2,020,000	\$1,049,393
General Fund Salary/Benefit Salvage	\$36,470,369	\$34,331,518	\$ (2,138,850)

The action of the board to fire Dr. MacLennan, contrary to the college’s risk management provider (ICRMP – Idaho Counties Risk Management Program), had an impact on the provider’s decision to not renew coverage. This resulted in the college needing to acquire coverage on the open market. Total comprehensive coverage for liability and property under ICRMP cost the college \$321,000 annually. Comparable coverage on the open market cost the college \$1.1M. ICRMP extended coverage to October 1, 2022 to provide time for NIC to find coverage from another provider. *See [ICRMP Extension Letter](#)*

Moody’s reviews the college’s financial outlook every year. The result of this year’s review was a downgrade of the issuer (college rating) from an A1 to an A3 and the downgrade of the outstanding bond issue from an A2 to an A3, citing “a continuing period of significant governance and management dysfunction.” Moody’s stated that the show cause sanction caused the rating downgrade to be more severe. *See [Moody’s Credit Opinion](#)*

Evidence of Progress:

The College, including the board, continue to build a working relationship together to stay in compliance with Eligibility Requirements 8 – Institutional Integrity, 9 – Governing Board, 19 – Financial Resources, and 20 – Financial Accountability, and Standards 2.A.1 -2.A.4 Governance, 2.E.2 Financial Planning, and 2.E.3 Financial Resources:

- Even though the college has financial risk identified by NWCCU, the college can provide evidence of continued financial stability since the 2020 Year Seven Visit that identified stewardship of resources and financial management as a [commendation](#) by the visiting team. (The other commendations include workforce training, community engagement—Foundation efforts, library, and increasing student success in the Cardinal Learning Commons.) The current trainings that the board is voluntarily participating in, given time enough to develop thoughtful depth and change, can lead to improved governance and eventually to a reduction in financial risk. The administration is also taking measures to reduce expenditures in areas that it controls.

- The ACCT consultants are working with the board to provide clarity in roles and responsibilities and improve predictability. Increased predictability would result in the institution's ability to renegotiate insurance policies and request a rating re-evaluation from Moody's.
- On Wednesday, February 1, 2023, members of the administration provided training to the board of trustees. As part of that training, Vice President Garcia provided an overview of the budget process for the college, roles and responsibilities of the board with regard to the budget and a list of agencies to which the Office of Finance is accountable in addition to the board itself. *See [Board Finance Training Slides](#)* Following that meeting, ACCT consultant Dr. Debbie DiThomas observed that the presentation resulted in greater understanding and respect for the role and qualifications of the Vice President of Finance.
- Due to years of outstanding stewardship of its resources, the college is in exceptional financial condition. *See [NIC Cash Balance Report](#)*
- The college's insurance broker is in negotiation with property carriers to secure better coverage at a lower price. We expect this renegotiation to lower our premium cost which will reduce pressure on next year's budget.
- The college has experienced clean audits with no findings on financial statements for over 7 years, and only minor findings related to federal funding. These minor findings have all been corrected. *See [Audit Finding History 2016-2022](#)*
- Even though the effects of the board's action have increased the financial risk to NIC, the college is in exceptional financial condition due years of outstanding financial stewardship. The college's financial strength is measured by the Composite Financial Index, a combination of four financial performance ratios. The college's primary reserve ratio is almost double the recommended level of 40% at 74%. Net operating revenue ratio is 6.73% (recommended level is 2-4%) and the viability ratio is 6.62, triple the recommended rate of 2. All of the elements of Composite Financial Index have stayed steady or increased over the last two years with the exception of the return on net asset ratio which decreased due to loss on investments within the NIC Foundation, a component unit. *See [NIC's CFI Analysis 2011-2021](#)*

Conclusion

“What we have here at North Idaho College is incredibly special, and all students understand that what we have is truly unique. The opportunities, resources, and leadership development this institution has invested in demonstrates a clear dedication to student success that any student or alumni can attest to.”
(Damian Maxwell, ASNIC President)

This letter has been written through a collaborative effort of administrators, faculty and staff. We offer our final thoughts for you to consider.

Above all else North Idaho College remains committed to our students and their success—whatever that may be. North Idaho College serves over four thousand for-credit students and over six thousand non-credit students every year. We are the only Idaho community college serving students from the five northern counties and neighboring states. Students come to NIC for career and technical programs, nursing and health professions programs, business programs, and transfer programs. They come because we offer high quality educational programs at an affordable cost. For many students we are the only means they have to pursue higher education and job training, because they cannot afford to go elsewhere. We desperately want to continue to fulfill our mission.

The NWCCU has two overarching standards:

1. Student Success and Institutional Mission and Effectiveness
2. Governance, Resources, and Capacity

Clearly, North Idaho College is not at risk of losing accreditation for falling short of Standard One. Evidence of our quality programs and student success is documented in our year seven report to the NWCCU and its response to the report in 2021. The NWCCU placed us on *Show Cause* because of Standard Two, specifically Governance, and more specifically board governance. As we have documented in this report, decisions made by the board over the past few months have been disruptive, and the cascading effects of those decisions have caused uncertainty, confusion, and anxiety both in the institution itself and in the community at large.

While we recognize that this response does not fully resolve each of the eight risks outlined in the NWCCU’s February 9 letter, there is evidence of progress. The risks of athletics changes and significant financial stresses are presently resolved. The Chief Executive Officer uncertainty, the frequent changes in leadership without relevant stakeholder input, and the multiple no confidence resolutions are in the process of being resolved. The college is continuing to address the fundamental causes of the lawsuits, improve employee retention, and increase enrollments; however, these risks can only be fully resolved in time.

This report demonstrates that the board is making progress. The board has committed to and is actively involved with consultants from the Association of Community College Trustees (ACCT) in an education and professional development process to improve overall governance. In fact, they have scheduled an all-day board retreat on April 15, 2023, to help them work through how to be a unified board singularly focused on the best interests of the college. Members of the board have signed a statement agreeing to work with President Swayne to respond to the issues of multiple no confidence votes from campus constituency groups. To align with best practices, the board is reviewing a draft policy to provide consistency in the hiring and appointing of any future interim president.

These are positive steps that offer a pathway forward. In fact, these steps initiated a resolution of hope by the faculty assembly—another step forward. It is our sincere hope that this evidence demonstrates that North Idaho College’s Board of Trustees, President, administration, faculty, staff, and students are all committed to working together to make the substantive changes in college governance necessary to come into full compliance with all NWCCU Eligibility Requirements and Standards. We know it will take time for the evidence of change to become visible—it will not happen overnight.

During the five months that President Swayne has been leading the college, he has energized faculty, staff, and administration, offering an encouraging vision of how we can continue to transform at NIC to grow enrollment and improve how we meet the needs of our community. He has stressed that we are the community’s college, and as such we will be responsive to our community partners and stakeholders.

We are passionate about our mission to provide affordable, high-quality education for many future generations of Idaho students. We ask that the NWCCU allow us to step back from the show cause cliff where we find ourselves and place us on a lesser sanction so that we can work to resolve all risks expeditiously and return to good standing. This situation is uncharted territory for both of us, and we need your help.