



# North Idaho College

Response to April 26, 2021 Inquiry  
from Northwest Commission on  
Colleges and Universities

Submitted: June 10, 2021

## **Introduction**

This report is in response to a letter received from the Northwest Commission on Colleges and Universities dated April 26, 2021 concerning a complaint about the situation at North Idaho College and the Board of Trustees, alleging violation of Eligibility Requirements for continuing accreditation. NIC has been transparent with the investigation by posting the complaint, the letter from the Commission, and the associated exhibits on NIC's [webpage](#).

It has been nearly a year since the college received official feedback from the NWCCU Peer Evaluation Report on NIC's Mission Fulfillment and Sustainability Visit. The college community considers the reaffirmation process a success and a marker of its work to continuously improve the student experience.

Since the evaluation visit, the college has moved forward with a plan to address the recommendations, and also maintaining and improving the areas identified as commendations. With the letter of investigation now before the college, and the need to address standards tied closely to the three Eligibility Requirements cited in the Commission's letter, relevant sections of the April 2020 Mission Fulfillment Report will be used when appropriate.

The college confirms the authenticity of all the exhibits included in the complaint letter as they were all obtained through public records requests.

As part of the request from NWCCU, the college submits a document summarizing the recent coverage of the events in the media under NWCCU's Receipt of Unsolicited Materials Policy. As a response, the college will highlight the standard(s) applicable to the related news article or story. NIC will not respond to editorials or opinion letters that were published in the press.

## **Organization**

This report will address each of the concerns based upon the standards associated with the Eligibility Requirements (ERs) cited in the correspondence from NWCCU. The information provided for each of the three ERs will include a brief statement about the feedback from the 2020 NIC Mission Fulfillment and Sustainability Report. A summary of the statements based upon the 2020 NWCCU Eligibility Requirement can be found on Exhibit A.

NIC's evidence argument of the relevant standards is based upon the following guide:

Eligibility Requirement 7 (Non-discrimination): Standards 2.C.2, 2.D.2, 2.D.3, 2.F.1, 2.F.4, and 2.G.2.

Eligibility Requirement 9 (Governance): Standards 2.A.1, 2.A.2, 2.A.3, and 2.A.4.

Eligibility Requirement 16: (Academic Freedom): Standards 2.B.1, and 2.B.2.

The college's response focuses on the areas in which it has immediate responsibility and control. This response will only comment on content referenced in the media that the college considers directly applicable to the Commission's letter of investigation. The statements and resolutions passed by the Associated Students of North Idaho College (ASNIC), the Faculty Assembly, the Staff Assembly, and the College Senate are referenced and placed in context of the standards and eligibility requirements.

While much of the information contained in this response is pertinent to 2020 ERs and is excerpted from the 2020 Self Study and Mission Fulfillment and Sustainability Report, for purposes of responding to this complaint, the information has been abbreviated, updated, and targeted to specific concerns expressed in the complaint.

**Eligibility Requirement 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.*

The 2020 Mission Fulfillment and Sustainability Peer Evaluation Report highlights that NIC provided evidence to meet the Eligibility Requirement. The team noted concerns with policies that haven't been reviewed or revised since 1998 and inconsistencies reported about the implementation of the 360-degree review for administrators, which has since been addressed both in policy and in practice (see 2.F.4).

**2.C.2** *The institution's policies and procedures related to student rights and responsibilities should include, but not be limited to, provisions related to academic honesty, conduct, appeals, grievances, and accommodations for persons with disabilities.*

To ensure the college complies with standards and follows best practices regarding student rights and responsibilities, administrators regularly attend trainings, certification courses, and webinars offered by their national and regional professional organizations. These include: Association of Title IX Administrators (ATIXA), Association of Threat Assessment Professionals (ATAP), National Association of Student Personnel Administrators (NASPA), and the Association for Higher Education Access and Disability (AHEAD). Extensive collaboration occurs with regional, state, and local agencies to ensure seamless and comprehensive services. Examples of this collaboration include regular meetings with the Coeur d'Alene Police Department, Safe Passage (a local victims advocacy organization), Idaho State Board of Education, Panhandle Health District, Idaho Office of School Safety, local health care providers, Idaho Department of Health and Welfare, and the Coeur d'Alene School District #271 community threat assessment team.

Policies and procedures regarding students' rights and responsibilities, including academic honesty, appeals, grievances, and accommodations for persons with disabilities, are clearly stated, readily available, and published in the policy manual, the college catalog, the student handbook, all course syllabi, and on the college website. In April 2019, the college implemented a policy and procedure for general student complaints, Student Complaints and Concerns [Policy 5.16](#) and [Procedure 5.16](#), and concerns not covered in other college policy. The college complies with the Americans with Disabilities Act (ADA) and the Rehabilitation Act of 1973 (Section 504). ADA information is conveyed in person, in course syllabi, through in-class presentations, and through the Disabilities Support Services Department. The college adheres to federal, state, and institutional policies related to Title IX. The Safe Campus Team and the director of Title IX identify at-risk students and identify proper interventions and support. Policies and guidelines for students who wish to appeal matters concerning an instructor, change of grade, course substitutions, academic sanctions, or other instructional matters are communicated to students in the Academic Appeals/Instructional Petition, and Academic Probation, Suspension, and Disqualification sections of the [college catalog \(pp. 27-29\)](#). Attendance and conduct expectations are published in the [Student Rights and Responsibilities section](#) of the college catalog. See Governance - Creation, Revision, or Elimination of College Policy and Procedure [Policy 2.01.04](#) and [Procedure 2.01.04](#), Student Complaints and Concerns [Policy 5.16](#) and [Procedure 5.16](#), Student Code of Conduct [Policy 5.06](#) and

[Procedure 5.06](#), Academic Integrity [Policy 5.06.01](#) and [Procedure 5.06.01](#), Sexual Harassment, Discrimination, and Sexual Misconduct (Title IX) [Policy 3.03.06](#) and [Procedure 3.03.06](#), and Accommodations for Students and Employees with Disabilities [Policy 5.13](#) and [Procedure 5.13](#).

In the complaint letter to the NWCCU, it was noted that NIC Board Chair Todd Banducci expressed concern to the president that “under God” was omitted from the student-led Pledge of Allegiance during the 2020 Commencement and the trustee warned that the institution should never allow that to happen again. In other exhibits from the complaint, it is noted that students have been subject to inappropriate, aggressive, or threatening behavior from Trustee Banducci at board meetings.

In the cases above, the impacted students have been informed by the college of these incidents, apprised of their rights to address any related grievance, and given appropriate advice and counsel. Some of the trustees have acknowledged and condemned the cited behavior, but the board has not taken any official action.

**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.*

In all of its interactions with students, faculty, staff, external agencies, Northwest Commission on Colleges and Universities (NWCCU), and the public, NIC, at the operational level, seeks to cultivate an environment of institutional and individual integrity that nurtures trust and respect for all persons, and follows the highest ethical standards in its interactions, commitments, policies, and practices. The college strives to respond quickly and thoroughly to inquiries and information requests from the media, legislators, and the general public utilizing personnel within the President’s Office and the Community and Government Relations Office. For several accreditation cycles, NIC has dedicated a full-time employee to serve as the Accreditation Liaison Officer to assist with communications and inquiries from NWCCU. NIC has instituted equitable procedures that respond fairly, respectfully, efficiently, and in a timely manner to complaints, issues or grievances. Supporting documents outlining internal and external complaints procedures include the Student Code of Conduct [Policy 5.06](#) and [Procedure 5.06](#), [FERPA webpage](#), Grievances [Policy 3.02.23](#) and [Procedure 3.02.23](#), and Professional Ethics [Policy 3.05.01](#) and Responsibilities [Policy 2.01.02](#).

As mentioned in 2.C.2, in April 2019, the board adopted the Student Complaints and Concerns [Policy 5.16](#) and [Procedure 5.16](#) providing a mechanism for college staff to address complaints from students in a manner not already established in board policy or elsewhere, such as Academic Integrity and the Student Code of Conduct, or the Academic Appeals/Instructional Petition in the [college catalog \(pp. 27-28\)](#).

The college has continued to administer policy and procedure in a fair and nondiscriminatory manner for faculty, staff, and students since the evaluation visit. As stated in the complaint letter, the Board of Trustees investigated complaints against Trustee Todd Banducci by a college employee (prior to his term as board chair) and issued a [Private Censure Letter](#) on April 8, 2020 as it “deemed that the complaint was resolved by informal resolution as permitted by Board Policy, and did not warrant an independent investigation for Title IX violations.”

Other statements and exhibits from the complaint cite numerous examples of unethical, intimidating, and aggressive behavior by Trustee Banducci. The president formally requested in the [Email from President MacLennan to Trustees January 18, 2021](#) that the board investigate these incidents, but to date the board has taken no official action. The College Senate, Faculty Assembly, and Staff Assembly have called on the board to address these grievances, reinstate the Board Member Conduct policy, participate in board member training, and follow best practices in trustee governance. On May 26, 2021, the board released a [Board of Trustees Accreditation Inquiry Response](#), agreeing in part to reinstate the Board Member Conduct [Policy 2.01.10 with amendments](#), (See 2.A.1), readdress the board leadership roles, and participate in June 2021 in training designed to assist members with serving their roles effectively. See [College Senate Statement](#), [Faculty Assembly Resolution](#), [Staff Assembly Statement and Resolution](#), and [ASNIC Resolution](#).

**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.*

From an operational level, NIC consistently complies with institutional and state policies established to prevent misconduct, prohibit conflict of interest, promote autonomy and academic freedom, and ensure that education is the college's primary focus. NIC adheres to the following governance documents: Conflict of Interest [Policy 3.02.15](#) and [Procedure 3.02.15](#), Professional Consulting [Policy 3.02.12](#), State of Idaho [Ethics in Governance Manual](#), and Employment of Related Parties [Policy 3.02.05](#).

In the [Email from President MacLennan to Trustees February 12, 2021](#), the president reported that Chair Banducci questioned an NIC employee's "financial support for a political rival." To date, the board has not acted on nor responded to this complaint of employee intimidation and apparent conflict of interest by the trustee.

The board voted to rescind Board Member General Conduct [Policy 2.01.10](#) during the December 16, 2020 meeting. The policy included language about conflict of interest along with potential action for violation of the policy. There is language about conflict of interest for trustees in Conflict of Interest [Policy 3.02.15](#) and [Procedure 3.02.15](#) including penalties provided in Idaho law and in the [Ethics in Governance Manual](#). By rescinding the policy, the board eliminated the mechanism to act on complaints made about a trustee. As a response to the resolutions passed by ASNIC, the Faculty Assembly, the Staff Assembly, and the College Senate, the board reinstated [Policy 2.01.10 with amendments](#) (highlighted in yellow), at the May 26, 2021 meeting.

**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.*

Employees are apprised of their conditions of employment through college policies in Section 3.02 of the policy manual. These policies detail compensation, benefits, evaluation processes, grievance, and termination, among other conditions of employment. Specific terms and conditions of employment may also be found in the employment agreements provided to all full-time faculty and professional staff. Annual employment agreements are typically distributed prior to the beginning of the employment term. Employees are required to return a signed copy of the agreement to Human Resources, acknowledging their understanding and acceptance of the stated terms and conditions of employment. Classified staff sign their initial agreement upon hire and receive a memo annually with their new rate of pay, if

applicable. All full-time employees participate in a new employee orientation process during which they are informed of employment-related policies, and provided information on benefits, payroll, and resources for their professional development. Employees also receive access to the MyNIC and HR portals, online resources that provide information and guidance on the processes related to college HR policies, including performance management, and recruiting. During the onboarding process, full-time employees meet with their supervisors and receive copies of their job descriptions outlining the duties of their positions and performance expectations.

The president is apprised of his conditions of employment through the execution of an employment contract with the board. Included in the current contract is language about the responsibilities of the office.

### **Section 2-Responsibilities**

The President is appointed by the Board as the Chief Executive Officer of NIC, reports directly to the Board and serves at its pleasure. The President is authorized and responsible for the administration of NIC and has authority over all matters affecting NIC at the operational level, in accordance with applicable laws as well as the policies, rules and regulations approved and/or sanctioned by the Board. In addition to the foregoing, the President shall also be responsible for carrying out all duties described verbally or in writing by the Board. In carrying out these duties, the President recognizes the need for effective communication with the Board.

The complaint received by NWCCU also cites statements made by the trustees regarding their roles and their expectations of the president. On January 15, 2021, the president received a [series of emails](#) from Chair Banducci, raising several topics including: vacation leave, timely notifications of meetings and effective communication, activity reports, expense reports, and a timeframe for agenda items. Also included in the emails were requests about adding “mask mandates” and “athletic competitions” to the board agenda. In the emails to the president, the new chair expressed that he would like to meet more frequently with the president to give him his “marching orders” regarding college operational decisions he considered “unconstitutional” including the COVID-19 response and related limitations to the athletic programs.

In response, the president wrote a response (See [Email from President to Trustees January 18, 2021](#)) outlining his concerns about the board chair and that his actions “demonstrate his intent to inappropriately direct me without full board involvement and knowledge.” In his email, the president expressed concern about the board understanding its role, not involving itself in more operational matters, and other conflicts that have created “an untenable situation.” The president requested that the board review and address the incidents and provide clarity about their differing roles. The board has not formally responded to the president’s request.

**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.*

NIC promotes ongoing performance management through regular evaluation of faculty, staff, and administrators.



The purpose of evaluation of faculty at NIC is to maintain and enhance instructional excellence, to assist in making sound personnel decisions, and to assist in making tenure recommendations by providing information on performance of faculty in their areas of responsibility. Faculty groups that are evaluated include tenured, probationary tenure-track, special appointment, part-time credit, librarians, and non-credit instructors. Tenured and probationary tenure-track faculty members are evaluated according to the Tenure [Policy 3.02.09](#) and [Procedure 3.02.09](#), and based on the criteria outlined in the Faculty Evaluation [Policy 3.02.21](#) and [Procedure 3.02.21](#).

NIC administrators and staff are subject to biennial performance appraisals (see recently revised Employee Development [Policy 3.02.22](#) and [Procedure 3.02.22](#)) and 360-degree administrator evaluations (see recently revised Evaluation of Supervisors [Policy 3.09](#) and [Procedure 3.09](#)). The performance appraisal process is designed to reinforce NIC's Integrated Strategic Plan, operational plans, and institutional values. Biennial formal performance appraisals are administered through an online system for all benefit-eligible staff and administrators. HR administers the online system to ensure consistency in the approach to evaluating employee performance. The process includes self-evaluation, supervisor's appraisal, and a second-level review. HR tracks and ensures 100 percent of benefit-eligible administrators and staff employees receive annual performance evaluations, using the online performance evaluation system. Mid-year evaluations and evaluations of part-time staff are encouraged, but not required. On a staggered cycle, administrators are evaluated in a 360-degree style process in which feedback is solicited from a variety of stakeholders. This includes input from their supervisor, direct reports, and colleagues, in addition to a self-evaluation. These evaluations are intended to assess leaders with the goal of improving management performance and thereby the work environment. These evaluations are currently administered by a third-party provider.

The board conducts an annual evaluation of the president's performance in accordance with Presidential Performance Review [Policy 2.02.02](#). The intent of this review is to strengthen the president's performance, to enable the president and the board to set mutually agreed upon goals, and to inform annual decisions on compensation and other terms of employment.

During his five-year tenure, the current president has received positive performance evaluations conducted by the Board of Trustees. Even though the President's Performance Evaluation Document is considered confidential, the nature of his evaluation is sometimes expressed publicly during the board's consideration of the extension of the president's contract. See Video: President's Contract Extension Discussion by Board of Trustees, June 2020 meeting ([1:06:09 – 1:08:56](#)).

**2.G.2** *The institution publishes in a catalog, or provides in a manner available to students and other stakeholders, current and accurate information that includes: institutional mission; admission requirements and procedures; grading policy; information on academic programs and courses, including degree and program completion requirements, expected learning outcomes, required course sequences, and projected timelines to completion based on normal student progress and the frequency of course offerings; names, titles, degrees held, and conferring institutions for administrators and full-time faculty; rules and regulations for conduct, rights, and responsibilities; tuition, fees, and other program costs; refund policies and procedures for students who withdraw from enrollment; opportunities and requirements for financial aid; and the academic calendar.*

NIC publishes a yearly catalog, which is available on the [college website](#). The college catalog and website include current and accurate information, including student rights and responsibilities, one of the topics included in the complaint received by NWCCU. Student rules, regulations for conduct, rights, and responsibilities are published in the Student Handbook, and are referenced in the [college catalog \(p. 30\)](#). Key policies for students are also organized under Section V: Students in the [policy manual](#). Tuition, fees, and program costs are published and updated annually in the college catalog, and in the [Tuition and Fees](#) section on the website. A printed flyer of tuition and fees is also distributed by the Admissions Office to prospective and current students who request the information. Information about the college's refund policy is available in the [college catalog \(p. 26\)](#), on the [Registration, Cancellation and Refund Policy](#) section on the website, and accessible on the [Student Finance](#) section of the website. Information about procedures for withdrawing from enrollment are available in the [college catalog](#).

The college continues to improve and enhance the methods used to publish and provide current and accurate information to students and stakeholders through the catalog, website updates, online orientation, emails, postings, and social media channels.

**Eligibility Requirement 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.*

The 2020 Mission Fulfillment and Sustainability report documented NIC's governing board's makeup and roles and responsibilities in maintaining the college's quality and integrity. The report also confirmed the governing board's support for institutional efforts toward mission fulfillment. There were no recommendations by the visiting team in April 2020 about the governing board. The college recommitted to implementing [Procedure 2.01.04](#) revised in January 2020 to ensure a regular review of existing policies in support of institutional quality and integrity.

The board continues to have five members, none of whom have any contractual or employment relationship or financial interest with NIC. However, the successful functioning of the board has been a central concern of the college in the past several months. In November 2020, two new trustees were elected and one trustee was reelected. The newly composed board elected officers at the November 18, 2020 Board meeting, choosing Trustee Banducci as chair, Trustee Greg McKenzie as vice chair, and Trustee Christie Wood as secretary/treasurer.

Trustee Banducci, prior to his term as board chair, received a [Private Censure Letter](#) from four members of the board in April 2020, two of whom were not reelected in November 2020 and two continuing trustees, Ken Howard and Christie Wood. Among the very first actions of the newly configured board in December 2020 was to rescind a board conduct policy that had been instituted in August 2020 to provide specific means to address behavior by board members and codify a code of conduct. Information about



the impact of the current board on college operations and governance are described below in the response to 2.A.1, 2.A.4, 2.B.1, and 2.B.2.

**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.*

The board derives its authority from [Chapter 21, Sections 33-2101 through 33-2144](#) of Idaho Code. [Section 33-2106](#) of Idaho Code specifically details the election process of the Board of Trustees. The board is made up of five volunteer members who are elected for staggered, four-year terms. Board members serve without remuneration and have no contractual, employment, or personal financial interest in the institution.

There are four references that establish defined authority, roles, and responsibilities of the Board of Trustees. First, there are ten general powers of the boards of trustees of community colleges delineated in [Chapter 21, Section 33-2107](#), none of which refer to college operations. Second, the general obligations and responsibilities of the board are outlined in Responsibilities and Duties [Policy 2.01.02](#). The policy states the board will determine the broad general policies to govern the operation of the college district, approve annual budgets, and consider and act on the recommendations of the president in all matters of policy pertaining to the governance and welfare of the college and the welfare of students. Agendas and minutes from all board meetings are available on the [Board of Trustees webpage](#). Third, the President's Contract language also specifies the responsibilities of the office for the administration of the college (also stated in 2.F.1):

### **Section 2-Responsibilities**

The President is appointed by the Board as the Chief Executive Officer of NIC, reports directly to the Board and serves at its pleasure. The President is authorized and responsible for the administration of NIC and has authority over all matters affecting NIC at the operational level, in accordance with applicable laws as well as the policies, rules and regulations approved and/or sanctioned by the Board. In addition to the foregoing, the President shall also be responsible for carrying out all duties described verbally or in writing by the Board. In carrying out these duties, the President recognizes the need for effective communication with the Board.

Fourth, board members have authority only when acting as a board legally in session. In accordance with Board Authority, Appointment and Functions [Policy 2.01.01](#), the board is not bound, in any way, by any statement or action on the part of any individual board member or employee, except when such statement or action is in pursuance of specific instructions by the board.

None of these references place the responsibility for college operations in the hands of the governing board. However, individual members of the board have attempted to insert themselves into college operations, by giving directives to the president. In February 2021, the president sent an email to the

board describing “intimidating and aggressive behavior” directed to him without the full board’s involvement and knowledge. President MacLennan spoke directly in that communication and subsequently (See [President’s Email of February 12, 2021 to Trustees](#)) to the importance of the board acting as a whole, in accordance with the scope of its responsibility. Similar concerns about the chair acting outside the responsibilities of the board as a whole were expressed by [Trustee Christy Wood in her letter of January 18, 2021](#) that called on Chair Banducci to step down. In each of these communications, the negative impact on governance and on the college’s accreditation status as a result was raised directly to all of the members of the board.

The college has maintained a process for the development and approval of policies and procedures that differentiate operational responsibilities from those of the board. The processes allow for participatory governance by faculty, staff, and administration; final approval of policies is a board action.

In fall of 2018, the College Senate activated an ad hoc committee to revise policy and the structure for conducting comprehensive and ongoing reviews of the college’s policies and procedures. This effort led to the creation of a seven-year review cycle for policy and procedure as part of Governance - Creation, revision, or elimination of College [Policy 2.01.04](#) and [Procedure 2.01.04](#). The ad hoc committee is now a formal standing committee consisting of members from all constituency groups and chaired by the past chair of the College Senate.

In Idaho, community college trustees are elected from the public so it is very common for a newly elected trustees to participate in orientation activities to better understand their role as governing board members. Many new trustees may not understand that governance of community colleges districts in Idaho are different compared to other entities such as local school districts or municipal governments.

The board has publicly recognized the need for training from a third party for all members to understand their roles and responsibilities as trustees, including general communication. See Video: Board member training discussion, February 10, 2021 meeting, ([6:50 – 28:00](#)). During discussions of matters pertaining to defined responsibilities of the board, several trustees have raised the need for training. During a discussion about legal services, two trustees expressed their belief that the college is composed of multiple separate entities. There was also confusion about topics to include on agendas for special board meetings. See Video: Legal services discussion, February 10, 2021 meeting ([43:38 – 1:22:39](#)).

Concern with the lack of policy pertaining to board member conduct and ethical practices resulted in the prior Board of Trustees approving a Board Member General Conduct Policy in August 2020. The policy was developed by two members and reviewed by all board members before it was discussed at length, and subsequently adopted by a 4:1 vote. As noted in the complaint letter and in the resolutions presented by the Faculty Assembly, the Staff Assembly, and the College Senate, the current board voted to rescind Board Member General Conduct [Policy 2.01.10](#) in a 3:1 vote. See Video: Board Rescinds Policy 2.01.10, December 2020 meeting ([1:04.20 - 1:20.41](#))

However, in the [Board of Trustees Accreditation Inquiry Response](#), during the May 26, 2021 meeting, the board reinstated [Policy 2.01.10 with amendments](#), pending completion and adoption of the revisions currently being developed by the board. While the reinstatement of Policy 2.01.10 is relatively positive, the amendment made to Policy 2.01.10 is problematic and creates ambiguity with regard to the role of the board and president in addressing operational issues and concerns. The amendment allows for confidential communication between board members and the NIC community. This amendment is

incongruent with the rest of the policy guidelines regarding interaction with college personnel. It negates the guidance that, “Board members shall inform the president about contact and interactions with college personnel.” Additionally, the amendment contradicts the guidance that it is “improper” for board members “to intercede with students, faculty, administrators or any other employees of the college on behalf of any person or program without informing the Board” ([Policy 2.01.10](#)). This amendment conflicts with the Board Statement on Consideration of the Views of Constituent Groups that declares that the president is the official voice and general agent of the college and the operating procedure for official communication to the board should be routed through administrative channels. Lastly, it provides tacit permission for the board or an individual board member to intervene and/or direct college operations without the president’s knowledge or agreement.

The board continues to put in question the ability of the administration to direct college operations. At its April 2021 meeting, the board deadlocked, and did not pass a vote to amend the Leave Without Pay (LWOP) policy that had been approved by the College Senate and the administration. The members split over whether the board has the final decision of approving leave without pay requests or if those decisions are properly with the administration as personnel matters that fall under normal operational processes, within the scope of human resources, direct supervisors, administrators, and the president. See Video: Leave without Pay Policy consideration by board, April 2021 meeting ([55:00-1:17:21](#)).

During the May 2021 meeting, the president presented the Leave Without Pay Policy for a third reading to the full board and the Policy passed on a 3-2 vote. As noted in the board discussion there remains substantial disagreement among the board about the issues that are operational versus policy or governance. See Video: Leave Without Pay Policy Consideration by board, May 2021 meeting ([1:00:00 – 1:14:45](#)).

**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.*

The [President’s Cabinet](#) (PC) represents the executive leadership team responsible for the overall administration of the college (See [Board and Cabinet Organization Chart](#)). This leadership team comprises the president; three vice presidents leading the areas of instruction, student services, and finance and business affairs; a chief communications and government relations officer; a chief information officer; a chief human resources officer, a development director, and the senior executive assistant. PC meets three times each month. A [summary](#) of the meeting is published in the college’s internal communication, an email newsletter for employees known as NICNow.

Every position on PC reports directly to the president and is responsible for leadership, strategic direction, and operational guidance of their respective area. PC provides guidance and support for long-range planning, including mission fulfillment, and the setting and evaluation of annual operational goals. See [NIC President’s Cabinet and Main Organization Chart](#).

**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.*

The board delegates authority for the college’s operations to the college president in accordance with

President's Authority and Responsibility [Policy 2.02.01](#) and the contract between the president and the Board of Trustees (see 2.A.2). As the trustees are elected, the president is not a member of the board. Responsibilities [Policy 2.01.02](#) require that the board elect officers (chair, vice-chair, and secretary/treasurer) from the membership of the board.

**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.*

The participatory governance model at NIC is facilitated by the College Senate, which comprises members of [Faculty](#) and [Staff](#) Assemblies, and the student government organization ([ASNIC](#)), all of whom are elected by their respective constituencies. The assemblies and the College Senate are the vehicles for the constituent organizations to participate in the decision-making process by making recommendations through the president to the board. See Governance Initiation of Policies [Policy 2.01.04](#), and [Procedure 2.01.04](#)

In addition to the bodies described below that are central to governance at NIC, the President's Advisory Council (see [President's Advisory Council Charter](#)) was established in 2018 to provide additional inclusion into the decision-making process and to improve communication among the college's employee groups. The committee was formerly known as Administrative Council (AC). A [summary](#) of each meeting is included in the college's internal communication known as NICNow. The members of the committee received updates on the progress of this report.

The faculty, staff, and student constituent groups have an active record of contributing their perspectives toward a shared goal of consensus building and creating positive change within the institution. See [Faculty Assembly Constitution](#), [Staff Assembly Constitution](#), and [ASNIC Constitution](#).

All three of these groups revised their respective constitutions and by-laws within the past year. Both assemblies and ASNIC also have their agendas and minutes posted to the college intranet so they are available to their respective constituent groups.

All faculty and staff under contract or other employment agreement are eligible to sit in their respective assemblies. Both assemblies have processes for the annual selection of officers. To participate in ASNIC as an officer, students must be enrolled in at least 10 credit hours and maintain a GPA of at least 2.50. See [Faculty Assembly Bylaws, Article III: Officers](#), [Staff Assembly Constitution, Article III-Officers and Responsibilities](#), and [ASNIC Bylaws](#) (Section 4).

Representatives from the ASNIC, the Faculty Assembly, the Staff Assembly, and the College Senate all have a seat at the table, or participate in virtual meetings, during the regular board meetings and provide updates to the trustees.

Accordingly, each of the constituent organizations have expressed their concerns with a set of issues directly related to the Commission's investigation of NIC and after deliberative processes, made recommendations for specific actions. These include the [Faculty Assembly Resolution of February 2, 2021](#) for adherence to the college president's responsibility to administer operations, to uphold academic freedom, support for human and civil rights, and opposition to all forms of harassment. Faculty Assembly called for the board to reinstate Board Member General Conduct Policy 2.01.10 and called for the board

chair of the board to step down. The [Staff Assembly Statement of February 23, 2021](#) called on all board members to adhere to the college's ethics policy and procedure, to Title IX, to abide by college policy against disruptive, hostile, or violent behavior, and to reinstate Policy 2.01.10 on "Board Conduct." Staff Assembly also called for an independent investigation of the allegations against Chair Banducci, and expressed solidarity with the faculty resolution for the board to be focused on the college mission, and the safety of students, faculty and community members. The Staff Assembly also called on Chair Banducci to step down. In the [Senate Statement of March 3, 2021](#) the College Senate pointed directly to its role to "act for and be responsible to its constituent groups in all matters pertaining to the governance of the college" inclusive of students, faculty, and staff. To that end, the Senate statement spoke to [ASNIC's Resolution of February 23, 2021](#) calling for the board "to resolve conflicts and act with a renewed integrity and professionalism in order to find their way back to the true mission of serving North Idaho College." The College Senate called for a return to good governance, to reinstate the "Board Conduct" policy 2.01.10, and adhere to existing policies and procedures, notably 2.01.02 on "Internal Governance and Board Responsibilities" that points to "the president [having] the authority to provide daily administration" and Policy 3.03.05 "Disruptive, hostile or violent behavior on NIC Sites."

The considerable time and energy devoted by these groups to address the emergent issues that are fundamental to college operations indicates their commitment to existing structures and processes of governance. Their collective efforts on these matters drew attention away from other matters important to college mission. Staff and faculty have expressed fear of engaging in open dialog and exchange due to potential exposure of their views and retaliation. Those concerns are founded in part from incidents that occurred in February 2021 and May 2021.

The Staff and Faculty Assembly meetings are normally conducted in a hybrid fashion, both face-to-face and online, and are open only to eligible members and those expressly invited to their forums. In March 2020, all meetings moved to a virtual environment due to the COVID-19 pandemic. The assemblies had a very high level of confidence in the integrity of their deliberations when conducting meetings face-to-face or virtually. However, in February 2021, (See [email from Jeff Davis, February 19, 2021](#), and [email from Keri Simonet, February 22, 2021](#)) Staff Assembly conducted an online vote of the membership on a set of proposed resolutions about concerns with the board and in support of the Faculty Assembly Resolution from earlier in the month. Access to the poll was copied without permission and placed on a social media platform. When the number of responses to the vote appeared to be inconsistent with membership numbers an investigation was conducted. The investigation revealed that many responses originated from a single IP address; the vote was invalidated and re-conducted using a more secure process. The assemblies now use security measures to ensure that only individuals representing their employee groups are allowed to participate in the assembly meetings.

On May 26, 2021, an [edited video](#) was released on Twitter and YouTube that highlighted the discussion held within a February 2021 Faculty Assembly special meeting pertaining to a potential resolution and vote of no confidence in the Board of Trustees. The public video included edited footage of a closed meeting of the Faculty Assembly and provided subtitled commentary. These incidents, in particular, highlight the fear constituent groups have for potential exposure and retaliation for participating in open dialogue. On June 6, 2021, the publisher of the video posted [an update](#) that YouTube removed the video in violation of community guidelines.

Further, at the April 28, 2021 board meeting, the chair of the Faculty Assembly read a resolution passed to express faculty concern with the lack of "publicly visible action" by the Board of Trustees to address



the initial resolution of February 2021 cited above. See Video: Second Resolution to board from Faculty Assembly, April 2021 meeting ([32:21-36:26](#)).

Thematic in the active engagement by the constituent groups to fulfill their role in shared governance is a call for all members of the college to follow established policies, to act foremost to further the college's mission, to reinstate means to effect accountability of the board, and to uphold academic freedom, and non-discrimination.

Although the board has heard these statements in their public meetings (excepting the ASNIC resolution), the trustees have had opportunity to respond to these concerns, and been prompted directly by President MacLennan to respond, to date the extent of board response has been limited to reinstatement of a modified board conduct policy and a statement of commitment to adhere to the statutory scope of their responsibility, to a board training, to consideration of the views of college constituent groups, and to review board leadership roles (See [Board of Trustees Accreditation Inquiry Response](#)).

The recent deadlock of the board over a proposed revision of the Leave Without Pay policy that had followed the shared governance process indicates the board's continuing conflict over what matters that fall under operational responsibilities and what matters are for the board to determine. See Video: Leave Without Pay Policy consideration by board, April 2021 meeting ([55:00-1:17:21](#)). While the Board did pass this policy on a 3-2 vote at their May 2021 meeting, the discussion during the consideration of the policy by the board identifies continued struggle in identifying operational versus policy and governance issues.

**Eligibility Requirement 16, Academic Freedom:** *Within the context of its mission and values, the institution adheres to and maintains an atmosphere that promotes, supports, and sustains academic freedom and independence that protects its constituencies from inappropriate internal and external influences, pressures, and harassment. Faculty, students, staff, and administrators are free to examine and test all knowledge and theories.*

The 2020 Mission Fulfillment and Sustainability Peer Evaluation Report highlights that NIC provided evidence to meet the Eligibility Requirement. The team noted concerns that effective dates are missing from some policies and others are still dated from the date of first inclusion in the policy manual.

**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.*

North Idaho College adheres to a set of policies that promote and protect academic freedom, consistent with the college mission. These include Academic Freedom [Policy 3.05](#). Academic Freedom is also included in Tenure [Policy 3.02.09](#). Time, Place, and Manner for Exercising Freedom of Speech [Policy 6.08](#) and [Procedure 6.08](#) provide NIC faculty, staff, and students, and members of the public with assurance that they may engage in constitutionally protected speech and expression at North Idaho College.

Intellectual Property [Policy 2.03.03](#) and [Procedure 2.03.03](#), adopted by the board in 2019, encourages NIC employees and students to engage in innovation, creative expression, and entrepreneurship toward



“discovery and dissemination of knowledge” that is “central to the college mission and society as a whole.”

In light of these established policies and procedures, documents included in the complaint to NWCCU led the faculty to assert upholding academic freedom as one of the stated goals of the Faculty Resolution of February 2, 2021. On April 28, 2021, the chair of the Faculty Assembly presented to the board a second resolution passed to document the lack of “publicly visible action” by the Board of Trustees to address the concerns of the faculty, including academic freedom. See Video: Second Resolution to board from Faculty Assembly, April 2021 meeting ([32:21-36:26](#)).

In one of the documents made public in the complaint to NWCCU, Chair Banducci expressed his readiness to personally “wade into” a student situation and to support efforts to adjust a “poor grade... up.” Chair Banducci also stated that he was “battling the NIC ‘deep state’” and expected to register “victories” over entrenched “liberal” interests at the college.

It is well established in NIC policy that the board in whole or as individual members, do not have any role in influencing assessment of student work that is the purview of faculty. Given the political nature of the board election and the content of Chair Banducci’s email communications (see [Email exchange NIC Student, Trustee Banducci, and Michelle Terry](#)), there is reason to perceive that academic freedom is vulnerable to inappropriate pressure.

NIC maintains that the administration has promoted and protected academic freedom, including in the situation that was the topic of Chair Banducci’s email to an NIC student. The college is not aware of any grievances filed by faculty or students because of an infringement of academic freedom by an administrator. Further, as outlined in 2B2 below, the college actively managed the specific situation referenced by Chair Banducci and by so doing, upheld academic freedom.

During the board meeting held on February 28, 2021, Chair Banducci asked Chris Pelchat, the chair of the Faculty Assembly about the impact of the board on teaching and learning in the classroom. The Faculty Assembly chair stated that although he was not personally aware of a direct impact on his classroom learning environment, he noted that regardless of intended consequence, the action or inaction of the board may have a “ripple effect” that is consequential. See Video: Faculty Assembly chair responds to impact of board in classroom, February 24, 2021 meeting ([1:15:18 – 1:17:48](#)).

If the kind of specific and implied actions referenced in Chair Banducci’s email were to occur, it would be evidence of a board member’s overreach into areas that are the policy-based purview of faculty for the content, materials, delivery, and assessment of student learning. However, there is no direct evidence of such actions at the time of this response to the Commission.

**2.B.2** *Within the context of its mission and values, the institution defines and actively promotes an environment that supports independent thought in the pursuit and dissemination of knowledge. It affirms the freedom of faculty, staff, administrators, and students to share their scholarship and reasoned conclusions with others. While the institution and individuals within the institution may hold to a particular personal, social, or religious philosophy, its constituencies are intellectually free to test and examine all knowledge and theories, thought, reason, and perspectives of truth. Individuals within the institution allow others the freedom to do the same.*

NIC affirms its commitment to the pursuit of knowledge, to the protection of independent thought and diverse perspectives, and to the exploration of controversial and new ideas that are fundamental to academic freedom. In conjunction with the academic freedom, as cited in in 2.B.1, Professional Ethics, [Policy 3.05.01](#), states the college's active promotion of intellectual honesty and free inquiry for the educational community at large, inclusive of faculty, their colleagues, and students.

NIC employees are protected in their ability to express themselves as private citizens and participate in associations or organizations of their choosing free from institutional censorship or reprisal, and to serve in public office as noted in Political Activities [Policy 3.02.11](#). Protection of academic inquiry is grounded in NIC's mission, core themes, and values, which are embedded in its policies, handbooks, procedures, and codes of conduct, notably Student Code of Conduct [Policy 5.06](#) and [Procedure 5.06](#) and Academic Integrity [Policy 5.06.01](#) and [Procedure 5.06.01](#).

The complaint letter includes Chair Banducci's January 2021 email exchange with a student about the student's experience in a class and the student's grade in the course. The student shared a correspondence that referred to "censorship" by the faculty teaching the class, which was taken in spring 2019. Further, the student initiated a conversation with another faculty member about the class, sought advice about dealing with the situation, and additional steps to pursue should it not be resolved through existing channels at the college, including to "reach out to the Board of Trustees" and if needed to get "legal aid."

The student did bring the matter forward to the vice president of instruction, who applied the published process for consideration of student appeals at that time ([college catalog, 2019, pp. 27-28](#)) and conducted a thorough investigation of the matter. The faculty involved, including the instructors of the class and the faculty member who the student spoke to about the class, and the student were afforded the opportunity to meet to discuss their perspectives, all documents shared by the student were carefully reviewed, including the YouTube video the student was permitted to record of a presentation that was a key part of the class assignment. The vice president for instruction reached a conclusion on the complaint and communicated it in writing to the student with an invitation for further opportunity to discuss the findings. The student made an appointment to do so in January 2020, but canceled it, and never rescheduled. A year later, the student wrote that due to the November 2020 election that changed the configuration of the board, "Now was a good strategic time for me to bring my issue to the board."

Despite the student statement that "[n]othing was ever done" about the situation, the college took this complaint seriously, devoted hours of time to meetings, discussion, and providing written response that centered on the faculty members' reasonable and intentional management of the learning environment. This included affording the student an opportunity to present on a controversial topic, with wide, but not unfettered latitude, consistent with the faculty responsibility to foster an opportunity for all members of the class to dialogue with one another.

The VPI determined that the faculty teaching the course responsibly upheld the student's ability to disseminate a perspective consistent with academic freedom as stated in NIC's policies. In addition, these faculty acted in good faith to further the ability of all students to productively engage in a manner that was well-aligned with the course goals. The student's displeasure with the outcome and subsequent pursuit of board involvement did not alter in any way the administration's defense of the freedom of faculty and the student to pursue knowledge, form reasoned conclusions, and share perspectives of truth. See [Email exchange NIC Student, Trustee Banducci, and Michelle Terry](#).

## Summary

The institution has addressed the complaint submitted to NWCCU which alleges that actions and behaviors of the board have violated Eligibility Requirements 7 (Non-discrimination), 9 (Governance), and 16 (Academic Freedom) and the associated Standards. A goal of the report was to provide evidence that from an operational level, NIC meets or exceeds the Standards affiliated with the three aforementioned Eligibility requirements.

During May 26, 2021 meeting, the board presented a formal written [Board of Trustees Accreditation Inquiry Response](#). Each board member verbally acknowledged individual support for the statement and subsequently signed the document.

The college community looks forward to providing evidence in NIC's Year Six Policies, Regulations, and Financial Report that the board has fully relinquished college operations of the college to the president and directs oversight of the college in the areas that are provided statutorily or through board policy.

It is anticipated the board's engagement in training with ACCT will provide the board with a clear understanding of their governance roles and responsibilities, and promote effective, civil, business-like engagement with administration and the entire college community in all circumstances.

College leadership appreciate the board's action to reinstate the Board Conduct Policy 2.01.01, but as stated above, disagrees with the amendment to the policy. The board's commitment to codifying the expectation that all board members conduct themselves in an ethical manner at all times should be explicit in the new policy that is currently in development.

Lastly and perhaps most critical to NIC's ability to correct all the concerns conveyed in the complaint are the actions that will be taken to address the "significant misconduct of the board chair." Without expedient actions in response to this concern, it will be difficult for the college to re-establish trust in the current Board of Trustees. There is some reassurance, from the Board of Trustees Accreditation Inquiry Response, that "The Board agrees to readdress the Board leadership roles."

Effective governance depends upon strong board leadership. An effective board advances mission fulfillment, operates with high ethical standards, and holds itself, and all NIC employees accountable to the policies and procedures it establishes. The college is eager to work with a board to provide assurance to its students, staff, faculty, peer institutions, and the wider public that NIC is in good standing as an accredited institution of higher learning.