North Dakota Board of Higher Education
Meeting Notice and Agenda
December 9, 2014

The State Board of Higher Education will meet on Tuesday, December 9, 2014, 11:00 a.m. CST, Bismarck State College, NECE building, Bavendick Stateroom, 1500 Edwards Avenue, Bismarck, ND 58506. The live video stream can be viewed at: http://www.ndus.edu/board/live-stream/

Call to Order

1. Approval of Agenda*
   *per N.D.C.C. section 44-04-20(6), topics which may be considered at a special meeting are limited to those set forth in the notice of the special meeting

SBHE Budget and Finance Committee Recommendations – Chair Morton

2. Committee Consent:
   i) Authorize NDSU Dickinson Research Center (DREC) to enter into an exclusive option to purchase land agreement with the estate of Duane J. Boehm for 1,680 acres, with the purchase contingent upon the sale of 240 acres of existing DREC land. Proceeds of the sale to be used for purchasing the Boehm property, complete any required improvements, and fund any future increase in operating costs. Further, request authorization to seek legislative authority for the purchase, sale, and any required improvements through legislation introduced and sponsored by District 37 Senator Wardner.
   ii) Approve 2015-2016 Room, Board, and Fee guidelines.
   iii) Authorize WSC to borrow up to $300,000 from the WSC Foundation (at 2% annual interest for a five-year term) to partially fund the replacement of the new boiler plant serving Steven's Hall and the Fieldhouse.
   iv) Authorize Dakota College at Bottineau to increase spending for the Campus Generator project from $450,200 to $490,984.75, an increase of $40,784.75 funded $34,143 from 13-15 capital projects contingency pool and $6,641.75 from 13-15 capital assets funding. Further, authorize transfer of $6,641.75 from the 13-15 capital contingency pool; and, seek appropriate legislative approval.
   v) Approve change in authorization for MiSU football stadium press box from $4.0 million to $5.0 million, funded $4 million from City of Minot and up to $1 million in MiSU local funds. Further, seek appropriate legislative authorization for the change

3. Other Board Consent:
   i) Approve Joint Powers Agreement between SBHE and Valley City Parks and Recreation District for the Construction of a Community Wellness Center at VCSU.
   ii) Authorize NDSU to proceed with the Administration Building (Old Main) - Tuck-pointing and Rewindow Projects at an estimated cost of $600,000 funded from FY14 appropriated capital project designated reserves per SBHE policy 810.1.
   iii) Authorize NDSU to proceed with the Ehly Hall Renovation Project at an estimated cost of $2,450,000 funded from FY14 appropriated capital project designated reserves per SBHE policy 810.1.
CHANCELLOR SEARCH AGENDA

1. Welcome and Introductions – Chair Diederich

2. Review Chancellor Search Process and Open Meetings/Open Records – Ms. Cynthia Wagner Goulet

3. Charge to State Board of Higher Education – Chair Diederich

4. Report from SBHE members on open forums held on NDUS campuses – SBHE Members
   • Review Roles and Responsibilities Draft Report – Chancellor Skogen

5. Discussion with SBHE on qualifications to be sought in next Chancellor of the North Dakota University System – Consultants Dr. James McCormick and Ms. Janice Fitzgerald
   • Delegate Authority to Chair Diederich to work with Consultants to Finalize Chancellor Search Profile

6. Review and approve timeline and process, which includes establishing future meeting dates – Chair Diederich

7. Seek input on recommended communication plan – Dr. McCormick and Ms. Fitzgerald

8. Discussion on advertisement and recruitment options – Dr. McCormick and Ms. Fitzgerald

9. Media Inquiries – Chair Diederich

Adjourn
1. **Issue:** Sell existing NDSU Dickinson Research Extension Center (DREC) property near Dickinson which is becoming less suitable for research due to its proximity to urban growth. DREC will subsequently buy new property which is more distant from the urban area and therefore, more suitable for continued research operations.

2. **Proposed motion:** Authorize NDSU DREC to enter into an exclusive option to purchase land agreement with the estate of Duane J. Boehm for 1,680 acres, with the purchase contingent upon the sale of 240 acres of existing DREC land. Proceeds of the sale to be used for purchasing the Boehm property, complete any required improvements, and fund any future increase in operating costs. Further, request authorization to seek legislative authority for the purchase, sale, and any required improvements through legislation introduced and sponsored by District 37 Senator Wardner.

3. **Background:** The NDSU DREC conducts land grant research requiring land that is suitable for their research mission. Existing land adjacent to the Dickinson urban area is becoming unsuitable. This transaction allows for the DREC to sell the near-urban land for high values, and obtain better research land at a lower cost, as well as make the needed improvements.

4. **Financial implications:** The existing 240 acres of DREC land may sell for up to $9,000,000. The new property will be purchased for approximately $2,602,000. The difference between purchase price and actual sale proceeds will finance the new site improvements and increased operating costs. Future site improvements are anticipated to cost approximately $6,000,000 over about a six year period. Improvements are to include construction of storage buildings, an agronomic research facility, livestock work facilities, new fencing, internal roadways, and research plot access points. Annual increased operating costs will be approximately $50,000. NDSU-DREC will return to the SBHE for additional required authorizations and/or changes in this program, as required per SBHE policy.

5. **Academic implications:** No implications

6. **Legal/policy issues:** Sen. Wardner has indicated he will introduce and sponsor the legislation to carry the transaction during the 64th Legislative Assembly, if approved by the SBHE.
7. **Review Process:** Glatt, Tonder, NDUS Legal

8. **Enclosures:** 1) 11-14 DREC Land Purchase Map; 2) 11-14 DREC Land Purchase Sale Option

9. **Contact person:** NDSU VP Bruce Bollinger, bruce.bollinger@ndsu.edu (701) 231-8412

10. **Chancellor’s Recommendation:** Chancellor recommends his approval.
Summary of Proposed Action
SBHE Meeting – December 9, 2014

1. Issue: 2015-16 Room, Board and Fee Guidelines


3. Background: According to SBHE policy 805.6, campus Presidents may assess room and board rates that are “consistent with room and board rate guidelines approved by the Board”. Also, according to SBHE policy 805.2 campus Presidents may also approve increases in student government activity and university/college fees, unless the total increase in all mandatory fees are greater than 1% of the FY15 full-time resident, on-campus, undergraduate tuition rate at that institution. In that case, the SBHE must approve the fee increase. The student government activity fee shall be established by a vote of either the student body or its elected representative body. The university/college fee shall be established following notification of the institution student government body and provide students an opportunity for input.

Campuses will set rates early in CY 2015, so they can be properly communicated to students. Increases in these rates will be factored into overall rate increases and presented to the SBHE, when the SBHE considers tuition rates and other select mandatory fee changes (CND and NDSA fees) in Spring 2015, after the adjournment of the legislative session.

4. Financial implications: Increases in room and board rates will provide resources to the campuses for increased operating costs, technological enhancements, adequate set-aside for repair and replacement of equipment and facilities and bonding requirements needs in those areas. Any increases beyond the standard “inflationary” increase require specific explanation.

Funds raised by increases in the student activity fee will provide increased resources in the areas supported by the fee, including, but not limited to, student organizations and clubs, lyceums, drama, music, field trips and student publications. Increases in the university/government fee are to support areas for the benefit of the student body, including, but not limited to, debt retirement, student union operations, athletics and placement services.

5. Academic/Student implications: Increases in room and board rates will result in increased costs to the students who live in the residence halls and/or have a meal plan. Increases to mandatory student government activity and university/college fees will result in increased costs to all students. See language under “financial implications” related to the benefits to the students.

6. Legal/policy issues: None
7. **Review Process:** Administrative Affairs Council, via email
SBHE Budget and Finance Committee 12-8-2014

8. **Enclosures:** Proposed 2015-16 Room, Board and Fee Guidelines; Five Year Comparison of Room and Board Increases; Five Year Comparison of Mandatory Student Government and University/College Fee Increases

9. **Contact person:** Cathy McDonald may be reached at cathy.mcdonald@ndus.edu or 328-4111 for additional information.

10. **Chancellor’s Recommendation:** Chancellor recommends approval.
1. **Issue**: Replacement of the Steven's Hall boiler at WSC.

2. **Proposed motion**: Motion to authorize WSC to borrow up to $300,000 (at 2% annual interest for a five-year term) from the WSC Foundation to partially fund the replacement of the new boiler plant serving Steven's Hall and the Fieldhouse.

3. **Background**: The existing steam boiler was obsolete and was replaced with a hot water producing unit. Converting the old building system to use hot water instead of steam required significantly more work than anticipated. The project is largely complete. WSC awarded a contract for the boiler replacement on March 19, 2014, and the work will be substantially complete by the end of the calendar year. WSC does not currently have sufficient funds to pay the contractor for work completed.

4. **Financial implications**: The estimated project cost is $497,801:

<table>
<thead>
<tr>
<th>Description</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Planning, permits and insurance</td>
<td>$29,301</td>
</tr>
<tr>
<td>Construction contract</td>
<td>$384,139</td>
</tr>
<tr>
<td>Contingency</td>
<td>$58,361</td>
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<tr>
<td>Hazardous material abatement (asbestos)</td>
<td>$26,000</td>
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<tr>
<td><strong>Total</strong></td>
<td><strong>$497,801</strong></td>
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On October 9, 2014, the contractor submitted a payment application for $270,215.10 ($300,239.00 for work completed less $30,023.90 for retainage). The remaining amount due for the work is $113,923.90.

WSC can apply $197,801 from the 13-15 extraordinary repairs capital assets appropriation. WSC needs an additional $300,000 to pay the contractor for the pending and final payment applications.

WSC Foundation has approved a $300,000 loan to WSC to pay the contractor in full for the replacement of the new boiler plant. WSC could repay the loan over a five-year period at 2% interest. WSC is seeking SBHE approval to borrow the $300,000 on those terms.

WSC would repay any borrowed funds with cost savings from the new boiler plant and extraordinary repair funds that may be appropriated for the 2015-2017 biennium.

5. **Academic implications**: N/A

6. **Legal/policy issues**: There is not clear statutory authority for WSC to borrow from WSC Foundation.
There is statutory authority for WSC to borrow from the Bank of North Dakota. NDCC 15-10-16.1 provides:

Institutions under the board of higher education are authorized to borrow, and the Bank of North Dakota is authorized to loan to those institutions, amounts not to exceed ninety percent of the value of an institution's certificate of deposit held by the Bank. The term of the loan may not exceed the term of the certificate of deposit offered as security for the loan.

This funding source is not available because WSC does not have sufficient funds for a certificate of deposit to be held by the Bank.

The SBHE may have sufficient constitutional authority to authorize WSC to borrow the funds from WSC Foundation. Article VIII, § 6(6)(b), North Dakota Constitution provides, in part: "The said state board of higher education shall have full authority to organize or reorganize within constitutional and statutory limitations, the work of each institution under its control, and do each and everything necessary and proper for the efficient and economic administration of said state educational institutions."

If WSC Foundation would donate the $300,000 to WSC, NDCC 15-10-12.1 would require legislative approval. This statute provides, in part:

The state board of higher education may authorize campus improvements and building maintenance on land under the control of the board which are financed by donations, gifts, grants, and bequests if the cost of the improvement or building maintenance is not more than three hundred eighty-five thousand dollars. The consent of the legislative assembly is required for construction of any building financed by donations, gifts, grants, and bequests and for campus improvements or building maintenance financed by donations, gifts, grants, and bequests if the cost of the improvements or maintenance is more than three hundred eighty-five thousand dollars.

However, since donations, gifts, grants, and bequests are not involved, it appears this statute does not apply to the current situation.

7. Review Process:
   • Laura Glatt, CPA, Vice Chancellor for Administrative Affairs
   • Rick Tonder, Director, Facility Planning
   • Laurie Furuseth, CPA, Chief Financial Officer, WSC

8. Enclosures:
   • Exhibit B
   • NDUS Capital Project Management Checklist (December 2, 2014)
   • Payment Application (page 1, October 15, 2014)

9. Key contact person(s) concerning issue: President Raymond Nadolny

1. **Issue:** DCB needs to increase the Campus Generator project budget for additional construction costs.

2. **Proposed motion:** Allocate $34,143 from 13-15 capital projects contingency pool to DCB for the campus generator.

3. **Background:** The bid for the Generator was $450,200, the SBHE and legislative authorized project amount. However, this amount did not include related additional costs for the transformer and engineering fees. Taken together, the total project cost of $490,984.75 now exceeds the authorized project amount of $450,200 by $40,784.75. The additional cost is to be covered from $34,143 from the 13-15 capital projects contingency pool and $6,641.75 from 13-15 capital assets funding.

4. **Financial implications:** Allocate to this project an additional $17,468 more in contingency funding than was originally prorated for this project ($16,675 into pool, request $34,143). This will potentially reduce the overall amount available in the contingency pool for DCB Thatcher Hall which was $34,243, which has not yet been allocated.

5. **Academic implications:** None

6. **Legal/policy issues:** Did not receive proper pre-approval for increased project authorization from the SBHE or legislature.

7. **Review Process:** Reviewed by DCB, Glatt, Tonder

8. **Enclosures:** agenda item and checklist

9. **Contact person:** DCB Director of Financial Affairs, Laura Pfeifer, laura.pfeifer@dakotacollege.edu (701) 228-5432

10. **Chancellor's Recommendation:** Recommends approval
1. **Issue:** Authorize an increase in the MiSU football stadium press box project from $4 to $5 million.

2. **Proposed motion:** Approve change in authorization for MiSU football stadium press box from $4.0 million to $5.0 million, funded $4 million from City of Minot and up to $1 million in MiSU local funds. Further, seek appropriate legislative authorization for the change.

3. **Background:** In January 2012, MiSU received SBHE approval to begin an $11,000,000 fundraising campaign for the improvement of athletic facilities. This project was later authorized by the legislature during the 2013 session at $11.8 million. This included some or all of the following planned improvements: Herb Parker Stadium including construction of a press box with concessions, ticketing facility, lobby, community meeting area, merchandising area, coaches' boxes, suites, restrooms, and area landscaping. Planned improvements to the Dome include replacement of worn arena seating and installation of a video scoreboard. Second-floor renovations will provide for a food court and improved building egress.

   Since that time, the press box has been started, but not yet completed. No local funds have yet been spent on the project. The football stadium scoreboard has been completed as an equipment purchase, and was funded through inter-fund borrowing (approved by the SBHE), to be repaid through advertising revenues. An additional scoreboard for the Dome is also contemplated in the 13-15 biennium as an equipment purchase, with SBHE approval to be sought in the future under a similar funding mechanism. At this time, it is anticipated that this will complete athletic facility upgrades/improvements during the 13-15 and 15-17 biennia. Any future proposed changes to athletic facilities will be re-structured and re-submitted as a new project to both the SBHE and legislature, as necessary. Thus, this essentially closes out the original $11+ million project.

4. **Financial implications:** Increase in spending authority of up to $1 million from institutional local funds, of which $470,478 has been set aside to date.

5. **Academic implications:** None

6. **Legal/policy issues:** None
7. **Review Process:** MISU, Tonder and Glatt

8. **Enclosures:** SBHE agenda item

9. **Contact person:** Brian Foisy, MISU VP for Administration and Finance, brian.foisy@minotstateu.edu, 701-858-3331

10. **Chancellor's Recommendation:** Recommend approval
1. **Issue:** Approve a joint powers agreement to facilitate the construction of a community wellness center, funded through privately raised funds, a city sales tax, VCSU student fees, and a challenge fund award, to serve the needs of VCSU and Valley City.

2. **Proposed motion:** Move to approve the Joint Powers Agreement between the State Board of Higher Education, on behalf of Valley City State University, and the Valley City Parks and Recreation District for the construction, management, and operation of the Valley City Health, Wellness & Physical Education Center on the VCSU campus.

3. **Background:** VCSU and the Park District have cooperated to develop a plan for a community wellness center, housed on the VCSU campus, to serve the needs of VCSU and Valley City. The center will provide new space for Park District programs and for VCSU academic programs and campus wellness offerings.

The joint powers agreement establishes a facilities advisory committee to coordinate the planning and development of the facility and supervise the Park District’s administration of the center. The committee includes representatives from VCSU, the Park District, and other Valley City agencies. Upon approval of the joint powers agreement, the committee will begin its planning and development work in earnest. A land lease to the Park District will be drafted to facilitate that work and submitted to the Board for approval at a subsequent date.

4. **Financial implications:** No direct cost; the center’s cost has been estimated at $16 million. The financing will incorporate privately raised funds and an anticipated challenge fund grant of $1 million. Valley City has also approved a half-cent sales tax to raise $3 million for the project, and VCSU students approved an increase in their activity fee to be applied to the project’s costs. Operating costs for the center will be subject to negotiation between VCSU and the Park District at a later date.

5. **Academic implications:** The community wellness center would house VCSU’s Health and Physical Education Department, and would include classroom and laboratory space for the department’s programs.

6. **Legal/policy issues:** The Board has previously approved the fundraising for the project and recommended the project to the legislature as part of its 2015-17 capital projects request.

7. **Review Process:** VCSU and Valley City Parks have negotiated the Joint Powers Agreement. The agreement has been reviewed by NDUS general counsel and is currently under review by the Office of the Attorney General.
8. **Enclosures:** Joint powers agreement between the SBHE and Valley City Parks and Recreation District.

9. **Key contact person(s) concerning issue:** Larry Robinson, VCSU Executive Director of Advancement; Dr. Margaret Dahlberg, Interim President of VCSU; Noah Brisbin, NDUS Assistant General Counsel

10. **Chancellor’s Recommendation:** The Chancellor recommends approving the motion as stated.
1. **Issue:** NDSU has completed tuckpointing and rewindowing two sides of the Administration Building (Old Main), and plans to repair the remainder of the building.

2. **Proposed motion:** Authorize NDSU to proceed with the Administration Building (Old Main) – Tuckpointing and Rewindow Projects at an estimated cost of $600,000 funded from June 30, 2014 reported capital project designated reserves per SBHE policy 810.1

3. **Background:** In 2009 NDSU partially tuckpointed and installed new windows on two sides of the Administration Building (Old Main). The current project will entail finishing the replacement of the remaining (approximately 55) windows, tuckpointing the rest of the building and replacing the north and south entrance doors to the building.

4. **Financial implications:** The project will be funded from June 30, 2014 reported capital project designated reserves per SBHE policy 810.1, which are sufficient and available for the project.

5. **Academic implications:** None

6. **Legal/policy issues:** None

7. **Review Process:** Reviewed by NDSU, Glatt, Tonder

8. **Enclosures:** SBHE agenda item and capital project checklist.

9. **Contact person:** NDSU VP Bruce Bollinger, bruce.bollinger@ndsu.edu (701) 231-8412

10. **Chancellor’s Recommendation:** Chancellor recommends approval
1. **Issue:** NDSU plans to renovate Ehly Hall to provide needed space for the Department of Engineering.

2. **Proposed motion:** Authorize NDSU to proceed with the Ehly Hall Renovation Project at an estimated cost of $2,450,000 funded from June 30, 2014 reported capital project designated reserves per SBHE policy 810.1.

3. **Background:** Ehly Hall was vacated when the architecture program moved to Klai Hall, and subsequently used as swing space for displaced Minard occupants. Currently unoccupied, Ehly Hall is ready to be renovated for Engineering as originally intended before the Minard Hall Collapse.

4. **Financial implications:** The project will be funded from June 30, 2014 reported capital project designated reserves per SBHE policy 810.1., which are sufficient and available for the project.

5. **Academic implications:** The project will provide much needed student areas, laboratory space for several departments within the college, and critical work space for undergraduate, graduate level students and faculty enhancing research capabilities.

6. **Legal/policy issues:** None

7. **Review Process:** Reviewed by NDSU, Glatt, Tonder

8. **Enclosures:** (agenda item and related material)

9. **Contact person:** NDSU VP Bruce Bollinger, bruce.bollinger@ndsu.edu (701) 231-8412

10. **Chancellor’s Recommendation:** Chancellor recommends approval
DATE: December, 2014
TO: SBHE Members
FROM: NDUS Office of General Counsel
RE: Chancellor Search Process and Open Meetings/Open Records

This memorandum briefly discusses application of North Dakota’s open meetings and open records laws to State Board of Higher Education (Board) meetings and records. A memorandum such as this is regularly issued to Committees, when such a Committee is established by the Board for the purpose of carrying out a function as delegated to the Committee by the Board. Although this is not the case in the instant matter, as the Board has not assigned or delegated the matter of the search for a new chancellor to any other body, but is instead undertaking all search related responsibilities, the following discussion is intended to reinforce the Board’s knowledge of the application of the state’s open meetings and open records laws to all matters of public business governed by the Board, including the Board’s business of searching for and appointing a new Chancellor.

OPEN MEETINGS

Both the North Dakota Constitution and state law provide that all meetings of governmental bodies, and of organizations or agencies supported in whole or in part by public funds, or expending public funds, are open to the public, unless otherwise specifically provided by law.1 Accordingly, meetings held by the Board, including meetings involving the appointment of a chancellor, are subject to the open meetings laws. The meetings to be held in connection with the chancellor search process are “special” meetings as that term is defined by state laws.

The NDUS Office will assist with open meetings laws compliance.

The North Dakota University System (NDUS) office will provide technical assistance to the Board to ensure compliance with open meetings laws in the same manner as the NDUS provides to the Board for all Board meetings. The open meetings requirements for the activities undertaken by the Board and in connection with the chancellor search and appointment are the same as specially-scheduled Board meetings, and include notifying the Secretary of State, distributing and posting meeting notices and agendas, newspaper publication of the notice, making arrangements for public access to upcoming meetings, and other logistical arrangements, all which require significant work on the part of the NDUS staff, and therein lies the reason for timely establishment of a meeting schedule for purposes of the chancellor search process.

Ms. Terry Meyer is the contact person for open meetings issues related to the Board’s chancellor search process and may be reached at 701-328-2963 or terry.meyer@ndus.edu. Board members may also contact the NDUS Office of General Counsel about any open meetings questions or concerns they might have. NDUS attorney Cynthia Wagner Goulet may be reached at 701-224-2584 or cynthia.wagner.goulet@ndus.edu.

1 N.D. Const. art. XI, §5; N.D.C.C. §44-04-19.
Open meetings laws apply to all search committee and subcommittee meetings.

Anytime there is a Board meeting regarding the business of the chancellor search, it must comply with open meetings requirements. A meeting occurs whenever a quorum (one-half or more members) of the Board discusses "public business." "Public business" is a very broad concept and includes all matters that relate or may foreseeably relate in any way to the performance of the Board's governance functions. Additionally, if the Board delegates any of its functions to a committee, that committee is also subject to open meetings requirements. Thus, anytime a quorum of the committee discusses public business over which the committee has authority as delegated to it by the Board, open meetings requirements must be met. On the other hand, if a task is delegated to a single member or to several members acting individually and not as a committee, then the involved task may be conducted outside of a public meeting.

Email, telephone and videoconference conversations may be "meetings."

Discussions do not have to be face-to-face to trigger open meetings requirements. Discussions occurring by telephone, videoconference or by email communications are considered meetings, and must comply with open meetings requirements, if they involve a quorum of the Board, of a committee and concern public business.

Serial meetings are subject to open meetings laws.

Open meetings requirements cannot be circumvented by "serial meetings." Serial meetings are multiple meetings (in person, by phone or by email) among small numbers of Board (or committee) members regarding the same topic. For example, this may occur if one Board (or committee) member calls each of the other Board (or committee) members individually to discuss Board (or committee) business. If the total number of members involved in the discussions constitutes a quorum, the serial meetings must comply with open meetings requirements.

Meeting minutes must be taken.

As Board members know, one requirement of open meetings is that meeting minutes must be taken. NDUS office personnel will take minutes for the Board in connection with meetings involving the chancellor search process, in the same manner as done for all meetings of the Board. Minutes must include members in attendance, date and time the meeting is called to order and adjourned, topics discussed, description of all motions and whether a motion was seconded, the results of all votes, and the vote of every member on each roll call vote.²

Voting must occur in open meetings.

Any votes taken must occur in an open meeting. Votes must be roll call votes so it is clear to anyone present how each member of the Board voted. Votes must also be recorded in the meeting minutes.

OPEN RECORDS

Unless otherwise specifically provided by law, all records of governmental bodies and organizations or agencies supported by public funds, or expending public funds, are open and accessible to anyone.³ The term "record" is extremely broad. It includes recorded information of any kind, regardless of the form by which the information is stored, which is in possession of a public entity or its agent and which has been

² N.D.C.C. §44-04-21.
³ N.D.C.C. §44-04-18.
received or prepared in connection with public business. E-mails, resumes, notes, spreadsheets, meeting minutes, scoresheets and letters are some examples of open records.

A request for access to or copies of records can be made in-person or by mail, e-mail, fax or telephone. Individuals requesting public records do not need to identify themselves or provide reasons for their requests. Within a “reasonable” time after a request for records is received, the records must be provided or an explanation as to why the request is denied must be given.

There are no exceptions for employment applications, reference letters, reports, notes or any other records received or created by Board members, or a consultant, and connected to the chancellor search process. Unlike some other states, North Dakota does not allow candidates for a position like the chancellor or a college president position to request that their names not be publicly disclosed until the search has progressed to a certain point, such as interviews of finalists. Candidates should be informed that their names, applications and nominations materials may not be withheld, if a request for that information is made. Communications received at or sent from a Board member’s home or business and concerning the public business of the Board are open records.

If the Board establishes any committees in order to undertake a Board function, then all records in possession of that committee and its members or staff related to the business of the committee are public records open to inspection.

**Search-related records in consultants’ possession are generally open to the public.**

If a governing body delegates a public duty to a third party, such as a search consultant, documents in possession of the third party connected with public business are public records. Any consultant engaged by the Board should be educated on North Dakota’s open records laws. (Records of a search consultant that are not related to work undertaken for a North Dakota public entity are not subject to North Dakota’s open records laws.) Search consultants may communicate with individuals to determine or encourage interest in applying for a position, and records related to those communications are not subject to the open records law. However, upon submission of an application, the application and related materials in possession of a consultant are open records.

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4 *Forum Publishing Company v. City of Fargo*, 391 N.W.2d 169 (N.D. 1986) (job applications in possession of a private consulting firm hired by the city to screen applicants for chief of police are public records).
North Dakota University System

Chancellor Search

Charge

The search for the Chancellor of the North Dakota University System has begun and is expected to conclude mid-May. I ask that you commit to the following timeline and search expectations.

1. Attend search meetings – it is anticipated that we will meet four times in addition to the May 14, 2015, SBHE meeting where we will select the next Chancellor of the NDUS.
2. Participate in listening meetings and discussions that identify priorities and personal and professional attributes sought in the next Chancellor and incorporated into the search profile.
3. Review all candidate applications and identify a short list of candidates for additional screening and consideration.
4. Participate in interviews of top candidates; identify semifinalists.
5. Assist with interview visits – as needed; identify list of finalists.
6. Interview finalists and select next Chancellor of the NDUS.
## DRAFT

**Chancellor Search**  
**Timeline/Process**  
*Approved (date)___*

<table>
<thead>
<tr>
<th>Date</th>
<th>Task</th>
</tr>
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<tbody>
<tr>
<td>11/6/14</td>
<td>SBHE approved RFP to seek consultant for search, and assumed all responsibility for search related functions (in lieu of creating a committee therefore).</td>
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<tr>
<td>11/7/14</td>
<td>Published RFP for search consultant</td>
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<tr>
<td>11/21/14</td>
<td>Due date for consultants to submit a proposal</td>
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<tr>
<td>11/24-26/14</td>
<td>Chancellor evaluated consultants and selected one</td>
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**12/9/14 First Meeting**  
- Consultants in-person with SBHE  
- *Welcome* and introductions  
- Chair outlines charge  
- Report from SBHE members on open forums  
- SBHE provides input for position profile  
- Review and approve timeline and process, including establish future meeting dates  
- Consultants provide recommended communication plan  
- Consultant discusses advertisement and recruitment options  
- Media inquiries  

No later than 1/8/15  
- Consultants deliver draft advertisement and profile to Chair for final approval  
- Consultants/Chair finalize draft advertisement  
- SBHE will receive approved copy of advertisement and profile  

| 12/9/14-1/15/15 | NDUS Office develops website presence for search |

1/15/15  
- Chancellor search is launched with approved electronic posting  
- (Approved reduced, block advertisement for *Chronicle of Higher Education* submitted Jan. 19, 2015)  
- Approved advertisement posted with application deadline 3/17/15  
- Advertisement and Profile placed on Consultant's website  

1/15/15-3/17/15  
- Consultants actively recruit candidates  
- Consultants receive inquiries/applications/nominations  
- Consultant creates website for all applications  

3/17/15  
- Application deadline for best consideration  

3/20/15  
- Applications released to SBHE for review  

3/31/15 **Second Meeting**
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<tr>
<th>Date</th>
<th>Task</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>Consultants in-person with SBHE</td>
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<tr>
<td></td>
<td>SBHE meets to identify top candidates for IVN interviews</td>
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<tr>
<td></td>
<td>Consultants provide draft interview questions for consideration, as requested</td>
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<tr>
<td>Following 3/31/15 meeting</td>
<td>Consultants contact top candidates, re: interview process for IVN interviews, April 14; dates given for on-campus meetings/interview with SBHE in the event they are selected for semifinalist/finalist interviews</td>
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<tr>
<td></td>
<td>Consultants conduct reference checks on top candidates</td>
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<tr>
<td>4/14/15</td>
<td><strong>Third Meeting</strong></td>
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<td></td>
<td>Consultants available by telephone</td>
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<td></td>
<td>SBHE interviews top candidates via IVN</td>
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<td></td>
<td>Consultants deliver report on reference checks</td>
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<td></td>
<td>SBHE narrows list to semifinalists</td>
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<tr>
<td>Following 4/14/15 meeting</td>
<td>Consultants contact semifinalists and candidates not selected</td>
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<tr>
<td></td>
<td>Consultants conduct off-list reference checks</td>
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<tr>
<td></td>
<td>Consultants provide draft interview questions, as requested</td>
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<tr>
<td>4/28-30/15</td>
<td><strong>Fourth Meeting</strong></td>
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<td></td>
<td>Consultants in-person with SBHE</td>
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<td></td>
<td>Semifinalists meet with broad-based internal and external constituencies</td>
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<tr>
<td></td>
<td>SBHE hears/considers off-list reference check information</td>
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<tr>
<td></td>
<td>SBHE narrows list to final candidates for further consideration</td>
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<tr>
<td>Following 4/30/15 meeting</td>
<td>Consultants contact finalists and semifinalists not selected</td>
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<td></td>
<td>Consultant requests background checks with approval of finalists; report delivered to Chair (or designee)</td>
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<td></td>
<td>Consultants provide interview questions, as requested</td>
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<td>Site visit to final candidates’ home institution by a team of board members</td>
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<tr>
<td>5/14/15</td>
<td>SBHE meets and interviews finalists</td>
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<td>Chair (or designee) receives background check reports from AGB Search Consultants</td>
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<td>Offer extended to successful candidate</td>
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<td>SBHE appoints next chancellor of NDUS</td>
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<tr>
<td>5/14/15</td>
<td>Consultants assist NDUS Office with communication plan/announcement, as requested</td>
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<tr>
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<td>Consultants assist with transition plan, as requested</td>
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<tr>
<td>On 7/1/15</td>
<td>Next Chancellor assumes office</td>
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<td>Consultants remain available to NDUS for one year following appointment</td>
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</tbody>
</table>