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*Counsel for Defendant North Idaho College*

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

DOMINIC SWAYNE, an individual,

Plaintiff,

v.

NORTH IDAHO COLLEGE, a community  
college in the State of Idaho,

Defendant.

Case No.: CV28-22-7712

*Hon. Cynthia K.C. Meyer*

**DECLARATION OF GREGORY  
MCKENZIE IN SUPPORT OF  
DEFENDANT’S MOTION FOR  
RECONSIDERATION**

I, GREGORY MCKENZIE, declare as follows:

1. I am the current Chair of the Board of Trustees for North Idaho College (“NIC”).

I held this position since December of 2022. Prior to that, I served as Vice Chairman of the Board of Trustees ending in May 2022. I was first elected as a Trustee for North Idaho College in November 2020. I have personal knowledge of the information contained in the declaration and if called as a witness in this matter, I could and would testify thereto under oath.

2. I have reviewed the transcript of Dr. Swayne’s testimony from the hearing (Hearing Transcript) on February 24, 2023.

DECLARATION OF GREGORY MCKENZIE

3. I have reviewed Dr. Swayne's employment contract with North Idaho College. Attached hereto as **Exhibit A** is a true and correct copy of the employment contract.

4. I am familiar with NIC's policies and procedures.

5. Attached hereto as **Exhibit B** is a true and correct copy of NIC Policy 2.01.02, which provides that the Board is to "select, appoint, and evaluate the president of the college..."

6. Attached hereto as **Exhibit C** is a true and correct copy of NIC Policy 2.02.01, which provides that the president serves at the pleasure of the Board and that the president may act "in accordance with applicable laws and the policies, rules and regulations approved and/or sanctioned by the board of trustees."

7. Upon my review of the Hearing, I noticed that there are some discrepancies between Dr. Swayne's testimony and my personal experiences. For example, Dr. Swayne testified to the following:

*Q: Okay. And based on the communications with the individuals from NIC, had they done research in regards to the cost of changing conferences?*

*A: Yes.*

*Q: okay. And what is your understanding of what the cost to change conferences would be?*

*A: Yeah, likely to be, as I said, 1 to \$2 million.*

*Q: Okay. So 1 to 2 million additional dollars?*

*A: Per year, yeah.*

Hearing Transcript, p.63:9-14.

8. To contextualize this costs analysis, the Board "opened the budget" for discussion on this point in the first place was to allow the small wages of NWAC coaches to be adjusted. However, as of today's date, it is my understanding that the hypothetical costs are **currently** being calculated and I have never seen any estimate to suggest that any change would increase costs (and the corresponding operating budget) by between \$1-\$2 million dollars. Rather, it is my understanding that switching back to the SWAC athletic conference would be a net cost

DECLARATION OF GREGORY MCKENZIE

savings. Data-driven decisions, including an analysis of cost saving, are critical to the overall operations of NIC and Dr. Swayne's testimony on this point (including his suggestion that the decision has already been made and will somehow negatively impact him) demonstrates an unfortunate bias against working towards an impartial result.

9. Dr. Swayne further testified that he believed that his upcoming performance reviews would be negatively impacted by decisions made during the time that he was placed on administrative leave. *See* Hearing Transcript at pg. 107:10. Yet, as a Board Member, my evaluation of Dr. Swayne would be conducted based on his performance alone. Decisions that were made in his absence would not impact my evaluation. Moreover, in keeping with my duties, my evaluation of Dr. Swayne will be an individualized assessment based solely on his performance while serving as NIC President. Dr. Swayne has no basis to speculation as to his future performance reviews based on the alleged past conduct of the Board, particularly since his last performance review has not yet been reviewed and accepted by the Board of Trustees in executive session.

10. Dr. Swayne was hired by a three to two Board of Trustees vote during a meeting that was not preceded by an executive session. In an open meeting in June of 2022, the plan put forward by Attorney Lyons and search consultant Angela Provar was to discuss the potential candidates in executive session. If an executive session had been held prior to Dr. Swayne being hired, the three appointed and the two elected Trustees could have discussed the merits of all four presidential candidates. The executive session did not happen, and the circumstances surrounding that meeting caused me concern as to whether the decision to hire Dr. Swayne was pre-determined. For example, my observations of the surrounding circumstances caused me to believe that Dr. Swayne was prepared for the decision to name him as President before the actual

decision had occurred. It also caused me to question whether his initial contract signed in July was properly and validly executed.

11. These issues required investigation, which is why Dr. Swayne was placed on administrative leave in the first place. These issues required investigation, and were factored into the Board decision to place Dr. Swayne on administrative leave and not stated publicly to protect Dr. Swayne's reputation from being associated with any wrong-doing. The decision was made in accordance with NIC policy 2.01.10, attached hereto as **Exhibit D**, which provides as follows:

“The Board shall have the discretion to investigate the complaint, including the authority to engage an outside consultant to undertake the investigation.” The investigation (and corresponding administrative leave) were critical because the President is a non-voting ex-Aficio Board member and prior Board members are suspected of violating open meeting laws. Full operational control of the college should only be granted to an individual when fully cleared from participating in all wrong-doings, which is still under investigation. Further, the decision to place Dr. Swayne on administrative leave was a decision and regulation approved and sanctioned by the NIC Board of Trustees in adherence to NIC policy 2.01.10.

12. In addition, there are abnormalities with Dr. Swayne's employment contract, including the subsequent amendment thereto. For example, Dr. Swayne's employment agreement provides that he can only be terminated for cause by a super-majority of the Board of Trustees. This provision is not in accordance with other NIC policies. Therefore, I have concerns about the formation of the contract. This provision is not in accordance with other NIC policies. There, I have concerns about the formation of the contract as no policies were modified or created permitting the Board to not govern through majority consensus.

DECLARATION OF GREGORY MCKENZIE

13. NIC's decision to place a President on administrative leave in similar circumstances is industry standard. Below is a list of some other such examples, though there are many others:

-Oxford College President (2022).<sup>1</sup>

-San Joaquin Delta College President (2012).<sup>2</sup>

-Norco College President (2019).<sup>3</sup>

-Palomar College President (2019).<sup>4</sup>

14. Out of respect and overt consideration of Dr. Swayne, I attempted to protect Dr. Swayne through my actions even after he was placed on administrative leave.

15. However, given my experience as Trustee when dealing with highly paid individuals, I believed it best to minimize risk and adhere to NIC policy during the pendency of the investigation, which is why I believed that Dr. Swayne should be placed on administrative leave.

16. Retaining accreditation is of paramount importance to me. Accreditation requires NIC adhere to policies and the Board is the accountable entity to enforce that. Thus, I also considered it to be in the best interests of NIC to place Dr. Swayne on administrative leave.

17. Upon receiving the hearing transcript, I asked various interested parties to review it. It pains me to bring NIC employees into any conflict between President-Board relations. For employees to be unafraid to speak freely and the truth, administrative leave is justified and imperatively needed to provide the community that truth is being sought at NIC.

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<sup>1</sup> <https://www.vcstar.com/story/news/2022/05/05/oxnard-college-president-luis-sanchez-put-leave/9667564002/>

<sup>2</sup> [https://www.lodinews.com/news/article\\_3c0df1e0-4e03-11e1-9cea-0019bb2963f4.html](https://www.lodinews.com/news/article_3c0df1e0-4e03-11e1-9cea-0019bb2963f4.html)

<sup>3</sup> <https://www.pressenterprise.com/2019/06/11/norco-college-president-put-on-leave-could-be-fired-in-vote-tuesday-night/>

<sup>4</sup> <https://www.sandiegouniontribune.com/news/education/story/2019-12-18/palomar-college-puts-president-on-administrative-leave>

I declare under penalty of perjury that the foregoing is true and correct, and that I executed this document on this 17th day of March, 2023, in Hayden, Idaho.

DocuSigned by:  
  
A249552C-1DD7-45AA-BB54-C4E625F5F076  
\_\_\_\_\_  
GREGORY MCKENZIE

# EXHIBIT A

**EMPLOYMENT AGREEMENT  
PRESIDENT OF NORTH IDAHO COLLEGE**

THIS AGREEMENT is made effective as of August 1, 2022, by and between North Idaho College (“NIC” or the “College”) and Dr. Nick Swayne (“President”). The parties hereby agree as follows:

**Section 1. Purpose**

This document reflects the agreement between the President and the Board of Trustees of North Idaho College (the “Board”) as to the terms of the President’s employment at North Idaho College (the “Agreement”).

**Section 2. Responsibilities**

The President is appointed by the Board as the Chief Executive Officer of NIC, reports directly to the Board. 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 requested by the Board. In carrying out these duties, the President recognizes the need for effective communication with the Board.

**Section 3. Term**

The term of this Agreement will commence on August 1, 2022 and will continue until June 30, 2025, unless terminated consistent with Section 12. “Annual” for purposes of this Agreement means a fiscal year beginning July 1 and ending June 30 of the following year. The term may be extended by the Board, consistent with Section 4.

**Section 4. Renewal and Resignation**

4.1 The Parties agree that the President and the Board will review this Agreement before or in close temporal proximity to the end of each fiscal year for the Board and the President to decide and agree whether to extend this Agreement an additional year (with or without additional modification). Neither the initial term of this Agreement nor any extension thereof shall be construed to create or be evidence of contractual continued service or tenure of the President as an administrator under any provisions, policies, or rules extrinsic to this Agreement.

4.2 In the event the President wishes to terminate this Agreement at the end of its initial term, he shall so notify the Board, in writing no later than June 30, 2024. If the President wishes to terminate any extension of this Agreement, he shall so notify the Board in writing,



no later than the June 30th in the year proceeding the year of the desired June 30th termination date.

4.3 NIC has no duty to renew this Agreement at the expiration of the term. This Agreement will not automatically renew. The Board may, in its sole discretion, extend the Agreement for an additional term as determined by the Board.

### **Section 5. Compensation**

5.1 NIC will pay the President an annual base salary of \$230,000, which amount will be earned and payable biweekly.

5.2 NIC will make an annual retirement contribution, equal to 10% of the President's base salary, to the President's supplemental retirement account. Payment into such account will be earned and made biweekly in conjunction with payroll. Any employee payroll taxes resulting from this contribution will be withheld in connection with the President's base salary. There is no right to unearned amounts if this Agreement is terminated prior to expiration of the term.

5.3 The President will have temporary housing provided by the College, at a location and price deemed appropriate by the College, while the President seeks more permanent housing. When the President moves to the more permanent housing the College will provide the President a housing allowance in the amount of \$2,500 per month, starting on the first of the month when the President occupies the more permanent housing.

### **Section 6. Employee Benefits**

6.1 The President shall receive 24 annual vacation days, accruing at a rate of 2 days per month. Accrued vacation days may carry over into the following fiscal year; however, total accumulated vacation time will not exceed 30 days (240 hours). Upon termination of the employment relationship, the President will be paid for any accrued and unused vacation days at a rate equivalent to the President's annual base salary. The President shall notify the Board prior to taking vacation and the Board, in its discretion, may require such plans to be deferred as the Board deems appropriate. The President is entitled to paid holidays recognized by NIC.

6.2 The President is entitled to annual sick leave in accordance with NIC Policy and Idaho Code.

6.3 Subject to Sections 6.1 and 6.2, the President will otherwise be eligible to participate in the NIC programs and other benefits available to NIC employees.

6.4 During the first year of the term of this Agreement the College will pay for the reasonable, actual expenses associated with the President's relocation to Idaho. The President

will provide receipts and other appropriate documentation supporting actual relocation expenses for review and approval by the Vice President of Finance. The College's payment of relocation expenses under this Section 6.4 may be made directly to vendors or via reimbursement to the President for expenses incurred by the President. During relocation, the President may have up to an additional ten (10) business days of non-chargeable leave to facilitate the move.

### **Section 7. Automobile**

The President shall furnish his own automobile, and shall be liable for all maintenance, repairs, insurance, and operating expenses, including fuel costs. The College shall reimburse the President for all in-district and out-of-district travel using his own personal vehicle for College business at the applicable IRS deductible rate in effect at the time of travel.

### **Section 8. Professional Development**

The President shall be eligible to attend and participate in educational conferences, conventions, workshops, seminars, and similar professional activities and events, subject to reasonable review and approval by the Board. The College shall reimburse the President for reasonable out-of-pocket expenses incurred by the President in connection with such approved activities and events consistent with College procedures and practices.

### **Section 9. Expenses**

9.1 The Board agrees that the College will pay the President's reasonable, actual travel expenses, hotel bills, and other actual and necessary travel-related expenses incurred when the President is traveling on NIC business. The responsibilities of the President include attendance (sometimes with spouse) at various community events, hosting events, and entertainment reasonably calculated to promote the College. Reimbursement will be consistent with College procedures, practices and consistent with the College's budget.

9.2 The College will provide the President with appropriate electronic/tech equipment to assist the President in performing his duties.

### **Section 10. Outside Professional Activities**

Subject to the Board's prior approval, which shall not be unreasonably withheld, the President may undertake outside professional activities, including, without limitation, consulting, speaking and writing. Such activities may be performed for consideration provided that they do not interfere with the President's normal duties. The President agrees not to engage in any other employment, activity or enterprise, whether or not for remuneration, that is inconsistent, incompatible, in conflict with, or inimical to the President's duties, responsibilities, functions or the policies of the College.

## **Section 11. Performance Review**

The Board shall review the President's performance annually in accordance with NIC policy. The Board may also elect to have more frequent reviews (for example, semiannual or quarterly reviews) as determined by the Board in its discretion.

## **Section 12. Termination**

12.1 This Agreement may be terminated by mutual agreement of the parties, by the President without cause, or by the Board for cause. Notice of termination must be in writing and delivered to the non-terminating party.

12.2 If, during its term, this Agreement is terminated by the President without cause, the termination shall become effective 60 days after receipt of written notice of termination. The obligations of both parties under this Agreement cease when the termination is effective. The Board may, in its discretion, place the President on administrative leave during part or all of the 60-day notice period.

12.3 This Agreement may be terminated for cause, if a super-majority of the Board (defined as 4 or more Trustees) in its sole and reasonable discretion, determines that: (1) the President has significantly failed or refused to act in accordance with a material provision of this Agreement or any directive or order of the Board; (2) the President has exhibited gross misconduct or dishonesty in regard to his employment; (3) the President is (or has been) convicted of a crime involving dishonesty, breach of trust, or physical or emotional harm to any person; (4) the President is unable to perform the essential functions of the position; or (5) the President has acted in bad faith to the detriment of NIC.

12.4 In the event of termination for cause, the Board shall provide the President a written statement of its intent to terminate and its reasons for termination. Before the Board makes a final decision, the President is entitled to meet with the Board in executive session, within thirty (30) calendar days of the issuance of the written statement. The President may present any evidence to the Board to rebut the stated reasons for the termination. After the President has had an opportunity to respond to the stated reasons for termination, the Board will make a final decision in writing.

## **Section 13. Governing Law**

This Agreement will be governed, construed, and enforced according to the laws of the State of Idaho.

#### **Section 14. Assignment**

This Agreement is personal to the President and is not assignable.

#### **Section 15. Amendments**

This Agreement may be amended by mutual agreement of the parties. Such amendments must be in writing signed by the President and the Board Chair, following approval by a majority of the Board.

#### **Section 16. Notification to Board of Application for Outside Employment**

The President may, but is not required to, notify the Board Chair if an application for employment is submitted anywhere other than NIC. The President shall notify the Board Chair should the President become a finalist for employment in any capacity.

#### **Section 17. Waiver**

The failure or delay of the President or NIC to enforce at any time or to require compliance at any time with any provision of this Agreement, or to take any permitted action under this Agreement, shall in no way be construed as a continuing or future waiver of such provision or of any other provision of this Agreement, shall not affect the right of either party thereafter to enforce each and every provision of this Agreement, and shall not render any such provision(s) unenforceable or invalid.

#### **Section 18. Entire Agreement**

This Agreement constitutes the entire understanding of the parties hereto and supersedes all prior or contemporaneous representations, understandings or agreements, whether written or oral, between the parties, and cannot be changed or modified unless in a writing signed by the parties hereto.

#### **Section 19. Severability**

The unenforceability, invalidity, or illegality of any provision or clause of this Agreement shall not render any of its other provisions as unenforceable, invalid, or illegal, and such remaining provisions shall be construed in all respects as if the unenforceable, invalid, or illegal provision(s) were omitted.

*Signatures on Following Page*

DATED this 14<sup>th</sup> day of July 2022.

NORTH IDAHO COLLEGE

By David A. Wold  
David Wold  
Chair, Board of Trustees

DATED this 15<sup>th</sup> day of July 2022.

PRESIDENT

By Nick Swayne  
Nick Swayne  
President

# EXHIBIT B

# Policy

Policy # 2.01.02

Effective Date 1/30/02

Revised Date 10/28/09

<p><i>(Impact Area - Dept Name)</i></p> <p>Administration</p>	<p><i>(General Subject Area)</i></p> <p>Board of Trustees</p>	<p><i>(Specific Subject Area)</i></p> <p>Responsibilities and Duties</p>
	<p><b>Author:</b></p>	<p><b>Supersedes Policy</b></p>
<p><b>Relates to Procedure #</b></p>	<p><b>Impact:</b></p> <p>Board of Trustees</p>	
<p><b>Legal Citation <i>(if any):</i></b></p>		
<p><b><i>North Idaho College</i></b></p>		

Policy Narrative

[Page 1 of 4]

## **I. RESPONSIBILITIES**

The responsibilities of the board are as follows:

1. To determine the broad general policies that will govern the operation of the college district.
2. To select, appoint, and evaluate the president of the college who shall be responsible for the general administration and the implementation of board policies in the on-going operations of the college. To establish a compensation package for the president.
3. To elect the chair, vice-chair, secretary, and treasurer as officers for the college board, and, at its option, select a board trustee as a member of the board of directors of the North Idaho College Foundation.
4. To approve annual budgets, which includes setting tuition and fees and establishing the property millage levy rate.
5. To make final decisions regarding awarding tenure based on established policy and procedure, with the final recommendation of the president.

6. To review and approve all salary schedules annually.
7. To acquire, hold, and dispose of real and personal property.
8. To engage in and approve long-range facilities planning for campus site utilization, physical plant development, and further educational needs.
9. To act on recommendations of the college president concerning capital outlay, repairs, and maintenance for buildings, grounds, and equipment.
10. To require and consider reports from the president concerning the programs and condition of the college.
11. To consider and act on the curricular offerings of the college on the recommendation of the college president.
12. To consider and act on the regulations and other information in the college catalog.
13. To 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.
14. To provide for the establishment of the necessary procedures to assure proper accounting of receipts and disbursements of district funds, and those of student organizations, and other funds under the supervision of the district.
15. To provide for and review the annual audit of all funds of the district, student organizations, and other funds handled under the supervision of the district.
16. To issue general obligation of revenue bonds in the manner prescribed by law.
17. To periodically review the college's investment policy.
18. To select legal counsel and other professional and non-professional persons, to evaluate them periodically, and to prescribe their qualifications.
19. To accept grants or gifts of materials on such terms as may be mutually agreed upon by the college and the grantor.
20. To consider communications and requests from citizens or organizations on matters of policy.

## **II. DUTIES OF BOARD OFFICERS**

### Board Chair

The duties of the board chair shall be to:

1. Chair all board of trustees meetings.
2. Assist other trustees and the college president in preparing agendas for monthly board of trustees meetings.



3. Call special meetings as necessary.
4. Communicate on behalf of the board as the official voice of the trustees when conditions warrant.
5. Provide for evaluation of the college president as defined by board policy.
6. Periodically consult with board members on their roles and their performance as defined by board policy.
7. Assist the college president in conducting new trustee orientations.
8. Convene the board self-evaluation session as defined by board policy.
9. Delegate duties as needed to other board members

#### Vice Chair

The duties of the vice chair shall be to:

1. Understand the responsibilities of the chair and be able to perform those duties upon absence of the chair.
2. Carry out special assignments as requested by the chair.

#### Secretary

The duties of the secretary shall be to:

1. Verify for accuracy and sign all board minutes upon approval by a quorum of the board of trustees.
2. Assist the president with correspondence on behalf of the board of trustees with parties external to the college as necessary.
3. Make determination as to which documents routinely become part of the board archives and verify that they are maintained.

#### Treasurer

The duties of the treasurer shall be to:

1. Work with the president to ensure that appropriate financial records are made available to the board in a timely manner.
2. Receive the annual audit on behalf of the board of trustees and answer board members' questions about the audit.
3. Monitor the trustees' budget as needed.

Liaison to the North Idaho College Foundation

The duties of the liaison to the NIC Foundation shall be to:

Represent the interest of the board of trustees at all North Idaho College Foundation meetings and serve as the conduit for information between the foundation and the board of trustees.

**III. STANDARDS OF GOOD PRACTICE (CODE OF ETHICS)**

In support of effective community college governance, the board of trustees believes:

1. That it derives its authority from and is accountable to, the community and that it must always act as an advocate on behalf of the entire community, honestly debate issues that affect it, and speaks with one voice once a decision or policy is made.
2. That it must clearly define and articulate its role.
3. That it is responsible for creating and maintaining a spirit of true cooperation and a mutually supportive relationship with its CEO.
4. That it provide overall direction to the college by setting policy while allowing the president the authority to provide daily administration of said policies.
5. That its trustee members should engage in a regular and ongoing process of in-service training and continuous improvement, and regular evaluation.
6. That its trustee members come to each meeting prepared and ready to debate issues fully and openly, vote their conscience and support the decision or policy made;
7. That its behavior, and that of its members, exemplifies the principles of ethical trusteeship.

# EXHIBIT C

# Policy

Policy # 2.02.01

Effective Date 1/28/98

Revised 10/28/09

<p><i>(Impact Area - Dept Name)</i></p> <p>Administration</p>	<p><i>(General Subject Area)</i></p> <p>Board of Trustees</p>	<p><i>(Specific Subject Area)</i></p> <p>Presidential Authority</p>
	<p><b>Author:</b></p>	<p><b>Supersedes Policy #</b></p>
<p><b>Relates to Procedure #</b></p>	<p><b>Impact:</b></p> <p>President</p>	
<p><b>Legal Citation (if any):</b></p>		
<p><b><i>North Idaho College</i></b></p>		

Policy Narrative

[Page 1 of 2]

The president is appointed by the board of trustees and serves at its pleasure. The board delegates to the president its authority and responsibility to administer the college in accordance with applicable laws and the policies, rules and regulations approved and/or sanctioned by the board of trustees. The president provides leadership and direction to students, faculty, and staff. The president has final administrative authority over all matters affecting the college at the operational level.

In addition to such other specific authority as has been or may be delegated to the president by the board of trustees, the president has the authority to further delegate to those college officers he or she deems appropriate.

The president is given the authority and discretion to make day to day decisions in implementing and administering the policies of the board of trustees. As the

administrative officer of the board of trustees, the position of president is subject to the terms and conditions established by the board of trustees.

The president is North Idaho College's personal representative to the community, the legislature, the governor's office, and to state institutions of public and higher education. In all dealings with people, the president serves as the foremost example of the college's commitment to treat others with dignity, respect, and decency.

# EXHIBIT D

# Policy

Policy #2.01.10

Effective Date: 8/24/20

Rescinded: 12/16/20

Revised and Reinstated: 5/26/21

Revised: 8/22/22

<p><i>(Impact Area - Dept Name)</i></p> <p>Board of Trustees</p>	<p><i>(General Subject Area)</i></p> <p>Board of Trustees</p>	<p><i>(Specific Subject Area)</i></p> <p>Board Member General Conduct</p>
	<p><b>Author:</b> Board of Trustees</p>	<p><b>Supersedes Policy</b></p>
<p><b>Relates to Procedure #</b></p>	<p><b>Impact:</b> Board of Trustees</p>	
<p><b>Legal Citation (if any):</b></p>		
<p><b>North Idaho College</b></p>		

Policy Narrative

Page 1 of 6

Pursuant to Idaho Code Title 33 Chapter 21; 33-2107 entitled General Powers of the Board of Trustees, the Board of Trustees of each community college district shall have the power to adopt policies and regulations for its own government and the government of the college. In furtherance of this power the Board of Trustees establishes this policy regarding Board Conduct.

**Purpose**

The purpose of this policy is to prescribe processes, behaviors, and methods of appropriate communications for effective and efficient Board operations. This policy is not intended to infringe upon individual first amendment rights nor interfere with

personal relationships. Utilizing proper procedures and channels of communications and exercising respectful behaviors results in a more effective and efficient organization.

### **General Guidelines for Conduct**

The Board expects its members to demonstrate ethical and businesslike conduct. This commitment includes proper use of authority and respect in group and individual behavior when acting as Board members.

Board members are expected to:

1. Devote time, thought, and study to the duties of a trustee in order to be effective and provide credible service.
2. Consider information received from all sources and base personal decisions upon all available facts while maintaining confidentiality of privileged information.
3. Work with fellow trustees in a spirit of harmony and co-operation in spite of differences of opinion.
4. Recognize that authority over the organization is only vested in the Board when it meets in legal session.
5. Maintain the integrity of the Board and the position of the trustee when communicating and interacting with outside individuals and agencies. This includes full disclosure to participants when attending meetings as an ordinary citizen.
6. Respect the majority decisions of the Board.
7. Work to support the interests of North Idaho College ("NIC") and the Board.
8. Demonstrate discretion when making public statements in person, online or in other forums, so as to minimize the impression that such statements reflect the opinion of NIC or the Board when they do not.
9. Maintain the highest standards of civility and respect accorded to public office through the absence of unwarranted criticism of fellow Board members, the Board, NIC administration or employees.
10. Deal appropriately with sensitive issues and respect the confidentiality of discussions that take place during executive sessions.
11. Represent everyone the College serves, not a particular interest group.
12. Declare any conflict of interest. A trustee will not participate in, vote on, or exert influence on, any decision in which the trustee has any interest.



The Board of Trustees recognizes that it has authority to act only as a unit and that individual Board members have no authority to act in College matters without approval of the Board.

The Board will enforce upon itself and its members effective practices to govern and discharge its duties effectively and efficiently. The Board and individual Board member's self-discipline will apply at all times and to such matters including, but are not limited to attendance, respect for others, proper decorum, confidentiality with sensitive information, speaking with one voice for external communications, and adherence to the policies and rules of the College and the Board. The Board will take appropriate action to enforce the obligations imposed hereunder, including without limitation, limiting or suspending Board privileges, private or public censure, or other such action as the Board deems appropriate.

Each Board member is subject to and shall conform his or her behavior in accordance with Board and general College policies regarding ethical and professional conduct.

### **Interaction with College Personnel Guidelines**

College personnel regard a visit by a Board member, except for consultation with the President, as a special occasion. Ongoing interaction can create confusion as to the roles of the Board and the College Administration. To prevent the appearance of impropriety or unethical conduct and to avoid the use of undue and inappropriate influence over College personnel, Board members shall inform the president about contact and interactions with College personnel. Board members should be afforded communication with the NIC community. Nothing herein shall be construed to prohibit or discourage communications between board members and members of the faculty, staff, administration or community.

Individual Trustees, however, must refrain from communicating or acting in a manner that violates, interferes with or circumvents College policy and administrative procedures and guidelines. Trustees are responsible for familiarizing themselves with College policies, adhering to those policies, procedures, and guidelines and complying with the spirit and intent of those policies.

The Board recognizes the rights of students, faculty, administrators and other employees of the College to hold private meetings and to carry on the day-to-day operations of the College without the participation of Board members. Accordingly, it is improper for Board members:

1. To attend or participate in private meetings of students, faculty, administrators or other employees of the College where College business is to be considered, unless the Board member has been invited to attend as an observer only, or the

Board as a whole is invited to attend and has decided to participate, or the Board member has been officially designated by the Board to attend or participate;

2. To participate in the day-to-day operations of the College without official Board approval;
3. To intercede with students, faculty, administrators or any other employees of the College on behalf of any person or program without informing the Board.
4. To threaten or harass or intimidate any employee or student of the College or anyone doing business with the College; and
5. To borrow money, solicit funds or accept gratuities of any kind from any employee of the College, unless the activity, is conduct involving election, campaigning, or free speech or is otherwise protected by constitution or statute.

### **Communications Procedures/Board Members Request for Information**

In order to assure that internal and external communication between the Board, the public and the college staff are clear and represent the unity and maintain the integrity of the Board acting as a whole, these policies will be followed as individual responsibilities of each Trustee. Trustees should be continually conscious of the potential that their position is viewed as one of power and may unduly influence college employees

1. Individual Trustees requesting information that will require a material amount of staff time to compile, or the preparation of a special report, or that may be disruptive shall make such requests to the Chairperson of the Board. The Board Chairperson may approve the request or, at his or her discretion, have the request placed on the agenda of the next Board meeting for the consideration of the Board of Trustees. Compilations and reports prepared pursuant to this provision will be available to all Trustees. Individual Trustees shall not make such requests directly to an employee of the College.
2. Individual Trustees with questions regarding the operations of the College, such as inquiries concerning employment or admission to the College, complaints for or about students, complaints from or about faculty and staff, complaints or questions about administrative decisions, and complaints or questions from or about facilities, shall convey such to the Office of the President for consideration and possible action;
3. When discussing community concerns, issues involving the College, and actions taken by the Board of Trustees and the administration, Trustees should carefully delineate between opinions that are personal and held as an individual citizen versus opinions that reflect officially approved policies or action of the Board or College;

4. Trustees should make no announcement of nor give any information about action taken by the Board until such action has been communicated by the Board Chairperson or President through regular official channels;
5. Consistent with this and other Board Policies, an individual Trustee shall not purport to act for, bind, or commit the College to any act or course of conduct without prior approval of the Board. The College can be bound only by formal action of the Board.

### **Communication with Legislators, Public Officials, and Community Leaders**

Unless authorized by the Board, Board members, should take reasonable care to clarify that they are acting as individuals and not on behalf of the Board or the College and should strive to maintain consistency with established board decisions, policies and plans.

### **Relationship with the Press**

The Board Chairperson and the President, or their respective designees, shall be the spokespersons to the press on College matters. In most cases, Board members should refer inquiries from reporters to the Chairperson and/or President, or designee. The goal is to speak with one voice on College matters and to remove the potential of conflicting statements. However, the Board recognizes elected officials will speak to the Press when they feel it is appropriate.

### **Conflict of Interest**

As required by state law, if a Board member's outside activity (employment, participation or involvement in another business, corporation, institution or other entity) constitutes a conflict of interest, then the Board member will (a) disclose to the Board such conflict or the potential conflict; (b) absent herself/himself from discussion regarding any issue which involves his or her role as a Board member and his or her outside activity, and (c) refrain from voting on any such issue.

### **Trustee Usage of Facilities**

Trustees are not prohibited from using College facilities for professional or personal reasons provided such facilities are normally available to the public, and the Trustee is subject to the same conditions, goes through the same procedures and pays the same compensation as would a member of the public who is not a College employee or are specifically authorized by Board policy.

### **Complaints Regarding Individual Board Member**

In the event the College receives a complaint about a Trustee from a member of the public or from a College employee, the complaint shall be referred to the Board Chairperson or, if the complaint is against the Chairperson, to the Vice Chairperson. The Trustee that is the subject of the complaint shall be notified and given an opportunity to respond. The Board shall have the discretion to investigate the complaint, including the authority to engage an outside consultant to undertake the investigation. Any report from an outside consultant shall be disseminated to all Board members prior to any action being taken against the Board member. Meetings to hear complaints or to consider the conduct of a Board member shall initially take place in executive session. If the Board decides to take action (such as censure), such action may be a private admonishment or, if the Board decides the conduct justifies public admonishment, may announce censure (or other appropriate sanction) at an open meeting.

### **Potential Action for Trustee Violation of Policy**

A Trustee violation of this policy will be subject to the following potential action as determined by the Board as a whole:

Loss of Board appointments to committees.

Loss of officer status (e.g. designation as Chair, Vice-Chair, Secretary, Treasurer, etc.).

Private censure in executive session by other Board members.

Public censure by the Board (by motion or resolution in an open meeting)

Prior to such action, the Trustee will be entitled to a hearing before the Board in executive session to hear the charges and to allow the Trustee to respond. The decision of a majority of the Board is final.

The Board shall cause a record to be made of any such complaint proceedings and deposit such record in a confidential file maintained by the Secretary of the Board.

## CERTIFICATE OF SERVICE

On March 17 2023, I caused the foregoing document to be filed via the Court's iCourt CM/ECF system which will send same to all counsel of record in this matter.

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DECLARATION OF GREGORY MCKENZIE