

STATE BOARD OF COMMUNITY COLLEGES

**NORTH CAROLINA COMMUNITY COLLEGE SYSTEM
BIONETWORK INTERNAL AUDIT**

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**SBCC
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NORTH CAROLINA COMMUNITY COLLEGE SYSTEM
Dr. R. Scott Ralls, President

INVESTIGATIVE AUDIT

NORTH CAROLINA COMMUNITY COLLEGE SYSTEM
BIONETWORK EMPLOYEE

JULY 29, 2013

INTRODUCTION

Background

North Carolina Community Colleges BioNetwork supports the mission of the North Carolina Community College System by aligning world class workforce training and education to the Biotechnology, pharmaceutical and life science industries. BioNetwork trains at all levels of this industry, upgrading the skills of incumbent workers, from entry level to management. Seven centers, strategically and geographically positioned, develop short and curriculum designed courses to meet the needs of industry. The centers themselves are staffed with highly skilled, industry trained experts that are constantly developing workforce training programs that can be delivered anywhere in North Carolina. A letter dated May 2, 2013 was received in the North Carolina Community College System Office containing allegations against a BioNetwork employee which were investigated during the audit process.

Objective, Scope, and Methodology

The objective of this audit was to investigate allegations made against a North Carolina Community College System employee. The scope of the audit included reviews of the work plans and job descriptions of the employee, the employee's North Carolina Community College System email account, the employee's travel requests, and financial transactions between the colleges and the employee along with interviews with Agency and college personnel. Fieldwork was conducted in May and June, 2013.

FINDINGS

Use of Computing Resources

The North Carolina Community College System Office Computing Resources Acceptable Use Policy addresses allowable use of computing resources. Item 4 in the General Section reads –

- Computing resources must not be used to conduct a personal business. Any exceptions must be in support of System Office missions and require the prior written approval of System Office senior management.

During this audit, a review of the employee's North Carolina Community College email account was conducted. 270 emails were examined from the time period 7/1/11 – 5/31/13. The review yielded evidence of emails sent from the employee's work email account conducting business related to the employee-owned business -

- On Thursday, August 25, 2011 at 9:20 a.m., an email was sent from the employee's North Carolina Community College email account with the subject, "Problem with application". In the body of the email, the employee described problems entering information into a grant application. The email signature line listed the employee-owned business.
- On Friday, July 13, 2012 at 3:10 p.m., an email was sent from the employee's North Carolina Community College email account with the subject, "Sample analysis". In the body of the email, the employee described analytical testing. The email signature line listed the employee-owned business.
- On Tuesday, August 21, 2012 at 8:22 p.m., an email was sent from the employee's North Carolina Community College email account with the subject, "Looking for Part Time analyst", to an individual soliciting help in locating someone to do some part time work for the employee-owned business. The employee requested a resume from the student and referenced a short interview. The email signature line contained the employee's North Carolina Community College System title and applicable contact information.
- On Tuesday, August 21, 2012 at 10:45 p.m., an email was sent from the employee's North Carolina Community College email account with the subject, "Looking for Part Time analyst". In the body of the email, the employee described the employee-owned business as a "start up" and briefly described the type of work to be done for the employee-owned business. The email signature line contained the employee's North Carolina Community College System title and applicable contact information.

- On Monday, October 1, 2012 at 1:02 p.m., an email was sent from the employee's North Carolina Community College email account with the subject, "Student - Part time work", to an individual referred to as "student". In the body of the email, the employee referenced running the employee-owned business and solicited student workers for the employee-owned business. The email signature line contained the employee's North Carolina Community College System title and applicable contact information.
- On Tuesday, October 2, 2012 at 9:45 a.m., an email was sent from the employee's North Carolina Community College email account with the subject, "Part time work", to an individual referred to as "student". In the body of the email, the employee referenced the employee-owned business and provided details of said business. The location of the employee-owned business was listed as 391 Technology Way, Winston-Salem, the address of the BioNetwork Pharmaceutical Center. The employee requested a resume from the student and referenced a short interview. The email signature line contained the employee's North Carolina Community College System title and applicable contact information.
- On Tuesday, October 2, 2012 at 9:45 a.m., an email was sent from the employee's North Carolina Community College email account to an individual referred to as "student". In the body of the email, the employee referenced the employee-owned business and provided details of said business. The location of the employee-owned business was listed as 391 Technology Way, Winston-Salem, the address of the BioNetwork Pharmaceutical Center. The employee requested a resume from the student and referenced a short interview. The email signature line contained the employee's North Carolina Community College System title and applicable contact information.
- On Tuesday, October 2, 2012 at 9:48 a.m., an email was sent from the employee's North Carolina Community College email account with the subject, "Part time work", to an individual referred to as "student". In the body of the email, the employee referenced the employee-owned business and provided details of said business. The location of the employee-owned business was listed as 391 Technology Way, Winston-Salem, the address of the BioNetwork Pharmaceutical Center. The employee requested a resume from the student and referenced a short interview. The email signature line contained the employee's North Carolina Community College System title and applicable contact information.
- On Wednesday, December 12, 2012 at 7:30 p.m., an email was sent from the employee's North Carolina Community College email account with the subject containing the name of the employee-owned business. In the body of the email, the employee inquired as to the interest of continuing to work with the employee-owned business. The email signature line contained the employee's North Carolina Community College System title and applicable contact information.

- On Sunday, May 5, 2013 at 3:49 p.m., an email was sent from the employee's North Carolina Community College email account with the subject, "April Invoice". The email signature line listed the employee-owned business.

The employee repeatedly used North Carolina Community College computing resources to conduct business related to the employee-owned business, a violation of the North Carolina Community College System Office Computing Resources Acceptable Use Policy.

Travel Approval

North Carolina Community College System Office Travel Policies and Procedures address travel approval in great detail. It provides -

- Pre-approved travel authorizations are required for any travel when an employee will incur any expense(s) to the State of North Carolina. All estimated expenses should be itemized on the "Travel Authorization" form. (This would include parking fees, extra baggage costs, internet costs, and other required transportation costs.) All supporting documentation, such as a meeting agenda, registration forms, or conference information, must be attached to the travel authorization form. Approval signatures are required in the order listed below:
 - (a) Employee's Immediate Supervisor
 - (b) Division Vice President
 - (c) Director of System Office Funds
 - (d) Executive Vice President for Operations

Travel records pertaining to the employee were reviewed and examined. Evidence obtained from the records review revealed travel reimbursement requests prepared by the employee and approved by someone other than his direct supervisor –

- Request for Reimbursement of Travel and Other Expenses Incurred in the Discharge of Official Duty dated June 27, 2012 approved via signature by individual other than the employee's direct supervisor and submitted to Guilford Technical Community College for payment.
- Travel Request Form dated August 30, 2012 approved via signature by individual other than the employee's direct supervisor.
- Travel Request Form dated August 30, 2012 approved via signature by individual other than the employee's direct supervisor.
- Request for Reimbursement of Travel and Other Expenses Incurred in the Discharge of Official Duty dated October 31, 2012 approved via signature by individual other than the employee's direct supervisor and submitted to Guilford Technical Community College for payment.

- Request for Reimbursement of Travel and Other Expenses Incurred in the Discharge of Official Duty dated April 30, 2013 approved via signature by individual other than the employee's direct supervisor and submitted to Guilford Technical Community College for payment.

The employee is an employee of the North Carolina Community College System Office and thus, travel and reimbursement requests should be approved by his immediate supervisor in the System Office. Evidence was discovered suggesting the approvals were by employees of the BioNetwork Pharmaceutical Center, over whom the employee had oversight, a violation of North Carolina Community College System Office policy.

Secondary Employment

The Secondary Employment Section of the State Personnel Manual provides –

- The employment responsibilities to the State are primary for any employee working full-time; any other employment in which that person chooses to engage is secondary. An employee shall have approval from the agency head before engaging in any secondary employment. The purpose of this approval procedure is to determine that the secondary employment does not have an adverse effect on the primary employment and does not create a conflict of interest. These provisions for secondary employment apply to all employment not covered by the policy on Dual Employment.

Secondary employment shall not be permitted when it would:

- (e) create either directly or indirectly a conflict of interest with the primary employment.
- (f) impair in any way the employee's ability to perform all expected duties, to make decisions and carry out in an objective fashion the responsibilities of the employee's position.
- If the secondary employment has any impact on or may create any possibility of conflict with State operations, the form must be approved by the State Personnel Director in conjunction with the Board of Ethics.
- The employee shall have approval of the agency head, or designee, before beginning any secondary employment. Approval of secondary employment may be withdrawn at any time if it is determined that secondary employment has an adverse impact on primary employment.
- Each agency shall establish its own specific criteria, not inconsistent with this policy, for approval of secondary employment based on work situation needs.

- Each agency shall use a Secondary Employment Form (Word or PDF) that is consistent with the model provided by the Office of State Personnel.

It is the responsibility of the employee:

- (a) to complete a Secondary Employment Form for all employment that is not covered by Dual Employment, and
- (b) to update the form annually, as well as to document changes as they occur.

The requirements of the State Personnel Manual are clear. An employee is required to complete a Secondary Employment Form and update it annually in the event he/she engages in any secondary employment. In this instance, the employee filed a Secondary Employment Form dated January 4, 2011, noting the position title of consultant. A second form was filed on February 13, 2012. The form dated February 13, 2012 referenced the name of the employee-owned business and noted the position title of regulatory consultant/protocol writing. The 2012-13 Workplan of the employee provides:

- Administer the BioNetwork strategic plan, aligning with NCCCS initiatives
- Ensure BioNetwork resources are contributing to the success of appropriate customized training projects.
- Oversee the BioNetwork grant process

The employee's secondary employment creates a potential indirect conflict of interest with the individual's primary employment as the performance of stated work duties may coincide with the duties listed on the Secondary Employment Form. Furthermore, the Secondary Employment Form contains language directing the individual to "attach a brief description of the duties in which you will be performing" and no attachment was submitted which is a violation of System Office policy.

Facility Usage

The facilities at the BioNetwork Analytical Training Center are available for use by third party entities. Each entity desiring to lease the facility signs a Center Use Agreement. Each agreement details the terms of use, including the agreement period, usage rate, and payment terms. The employee is responsible for oversight at each of the System's BioNetwork Centers, including the BioNetwork Pharmaceutical Center, and as such, would have oversight of the agreements entered into by the BioNetwork Centers and third parties. The 2012-13 Workplan of the employee provides:

- Provide input (as necessary) on job descriptions for key BioNetwork Center positions:
 - (a) Center Directors/Managers
 - (b) Coordinators
 - (c) Faculty
- Review yearly Center goal and budgets and ensure they are in alignment with BioNetwork strategic plan with Associate VP Innovation and Biotechnology.
- Coordinate monthly Center Managers' meetings and all BioNetwork staff meeting
- Work with Centers to develop innovative training solutions and tools
- Ensure Centers are collaborating with local colleges and conducting outreach
- Communicate Community College and BioNetwork capabilities to industry partners.
- Proactively seek innovative funding sources and push Centers to apply for appropriate grants.

On April 25, 2012, the employee-owned business entered into a leasing agreement with the BioNetwork Pharmaceutical Center. The agreement was signed by the employee as business owner and the Director of the BioNetwork Pharmaceutical Center signed on behalf of the BioNetwork Pharmaceutical Center. By virtue of having oversight of the BioNetwork Centers, the employee played a vital role in the development and oversight of the BioNetwork Pharmaceutical Center's budget. The Center Use Agreement between the BioNetwork Pharmaceutical Center and the employee-owned business directly affected the budget of the BioNetwork Pharmaceutical Center and the employee derived personal benefit from said agreement, a violation of Section 14-234(a) of the North Carolina General Statutes.

Other Allegations

The letter dated May 2, 2013 contained other allegations, the majority of which pertained to the historical strategic decisions made regarding the direction and mission of the BioNetwork Pharmaceutical Center. The allegations were investigated and were unable to be substantiated. Evidence revealed the decisions were made by other individuals or were made prior to the employee's tenure with the North Carolina Community College System.