

SOUTH DAKOTA BOARD OF REGENTS

Academic and Student Affairs
Consent

REVISED
AGENDA ITEM: 5 – Q
DATE: December 13-14, 2023

SUBJECT

BHSU & Crazy Horse Memorial Foundation Agreement

CONTROLLING STATUTE, RULE, OR POLICY

[BOR Policy 5.3](#) – Agreements and Contracts

BACKGROUND / DISCUSSION

Black Hills State University (BHSU) and Crazy Horse Memorial Foundation (CHMF), a 501(c)(3) have an existing agreement to offer two cooperative summer semester undergraduate academic programs, the first entitled 7th GEN – First-Year and the second entitled 7th GEN Upper-Level. These programs are offered at the Indian University of North America of Crazy Horse Memorial Foundation through BHSU. In summary, BHSU and CHMF collaborate to offer and grant credit for the curriculum outlined in the Agreement, with CHMF funding the instructional and direct operating expenses of the 7th GEN Summer Programs. The 7th GEN – First-Year Program allows each student to complete up to 12 credit hours (4 course), with the 7th GEN Upper-Level Program comprised of a 35-40 hours per week internship, resulting in the award of 3 credit hours through BHSU.

BHSU and CHMF currently propose to enter into a new agreement continuing the existing summer programs and adding a spring semester certificate program that would offer a certificate in Indigenous Health and Wellness from BHSU and allow students to complete up to 13 credit hours from BHSU.

Since the partnership involves both the joint sponsorship of educational programming for which credit is awarded and the operation of an off-campus instructional site that is intended to operate for more than one academic year, Board approval is required per BOR Policy 5.3.

(Continued)

DRAFT MOTION 20231213_5-Q:

I move to approve the Agreement between Black Hills State University and the Crazy Horse Memorial Foundation in substantially similar form to that set forth in Attachment I.

IMPACT AND RECOMMENDATION

Approval of the Agreement set forth in Attachment I will provide the opportunity for BHSU and CHMF to continue to partner on the 7th GEN Summer Programs at the Indian University of North America of Crazy Horse Memorial Foundation, as well as providing an opportunity to provide a certificate program focused on Indigenous Health and Wellness. BHSU will provide the instruction and credits for the desired curriculum, with the instructional and operating expenses provided by CHMF.

Board staff recommends approval.

ATTACHMENTS

Attachment I – BHSU & CHMF Agreement

Agreement Between Crazy Horse Memorial Foundation and its Indian University of North America® (IUNA) and Black Hills State University (BHSU)

This Agreement is made between Crazy Horse Memorial Foundation (“CHMF”), a 501c3 public charity of international scope offering higher education opportunities through partnerships with select universities, and Black Hills State University (“BHSU”), a public university under the control and management of the South Dakota Board of Regents (SDBOR). For good and valuable consideration, consisting of the mutual promises herein, the Parties hereto agree as follows:

This Agreement outlines the cooperative operational implementation of two summer-semester, undergraduate academic programs, titled **7TH GEN.®-First-Year and 7TH GEN.®-Upper Level**, and a spring-semester certificate program, titled **Wichozani**, offered at The Indian University of North America® (IUNA) of Crazy Horse Memorial Foundation. The title, 7TH GEN.®, refers to the Native philosophy of looking seven years ahead when making decisions and taking actions.

7TH GEN.® First-Year Undergraduate Summer Program

The purpose of the program is : 1) to offer a culturally relevant, high-impact credit-bearing program teaching Native students how to best navigate the requirements of university attendance while completing their first semester; 2) to provide accepted students with the university courses identified herein (up to 12 credit hours total), which may be transferred to a regionally accredited college or university; 3) to extend accepted students enrolled in the program a credit-bearing paid internship learning experience at the Memorial’s visitor complex with placement in either CHMF or its onsite gift shop and restaurant; and 4) to further fulfill the educational and humanitarian mission of CHMF and BHSU’s commitment to the Black Hills region and support of Native students.

The 7TH GEN.® First-Year Summer Program recruits and accepts high school graduates who meet the program’s regular or probationary admission requirements, the majority of whom are American Indian or Alaskan Natives, from an applicant pool of eligible students throughout the United States. Accepted students enroll and participate in a summer semester that offers them the opportunity to earn 12 credit hours.

The courses offered include two core courses: a College Success Class (three credit hours) and the Native Studies Internship (three credit hours). Students then choose two other courses from the options of Introduction to Speech, American Indian Art History, English Composition or English Literature, and General Psychology. All students are classified as BHSU students during the summer semester, and they earn BHSU credit hours, which may be transferred to a college, university, or technical institute of the students’ choice. Students continue their studies at their chosen degree-granting institutions in the fall. The 7TH GEN.® First-Year Summer Program includes a rigorous academic component which includes the unique Internship and a structured residential experience immersed in Native culture. The Program is designed to validate and empower students, while helping them foster the skills, knowledge, and habits to succeed in college and life. The inspirational story of Crazy Horse Memorial and Crazy Horse are key components in both curricular and co-curricular activities.

7TH GEN.[®]-Upper-Level Undergraduate Summer Program

To further inspire and create an additional educational opportunity in leadership and career development for students who successfully completed the First-Year 7TH GEN.[®] or Wizipan Programs of IUNA, the Upper-Level Program is available to select applicants who are chosen to enroll in a full-time internship (35-40 hours per week) at Crazy Horse Memorial or with other select employers throughout the Black Hills region. In addition to the experiential component, students gather once per week for the academic component of the class. Students earn three BHSU credit hours and, again, the credit is transferable to the student's degree-granting college.

Students may be in their second semester first-year through senior status, including students who may have dropped out of college and need a pathway back.

Wichozani Undergraduate Spring Certificate Program

This certificate program is centered around Indigenous Health & Wellness and will be offered in the spring semester of the academic year for students that have successfully completed the First-Year 7TH GEN.[®] or Wizipan Programs of IUNA, or related post-secondary coursework at an accredited institution. The certificate program will follow a traditional 15-week semester with a rigorous academic component centered around contemporary issues and research-based practices in public health and wellness.

The purpose of the program is to: 1) offer an academic certificate in Indigenous Health and Wellness from Black Hills State University; 2) provide accepted students with the university courses identified herein, up to 13 credit hours total, which may be transferred to a regionally accredited college or university; and 3) further fulfill the educational and humanitarian mission of CHMF and BHSU's commitment to the Black Hills region and support of Native students.

BHSU Covenants and Agrees to Undertake the Following Duties and Obligations:

1. Extend the following courses in a face-to face format during the summer: ENG 101 Composition I or ENG 210 English Literature (3 credits); Psych 101 General Psychology (3 credits); SPCM 101 Fundamentals of Speech (3 credits); American Indian Art History (3 credits); College Success Class (3 credits); Native Studies Internship (3 credits); and EXPL 394 Upper- Level Leadership and Career Development Internship (3 credits). If extenuating conditions warrant, the courses, except for the Internships, may be offered online. However, face-to-face delivery at IUNA with enrolled IUNA students only is the preferred delivery model.
2. Extend the following courses in a face-to face format during the spring: AIS 377 Ethnobotany (3 credits); AIS 360 Public Health and Native American Communities (3 credits); AIS 475/575 Native Food Systems (3 credits); AIS 492 Indigenous Health and Wellness (3 credits); AIS 490 Capstone Seminar (1 credit). If extenuating conditions warrant, the courses may be offered online. However, face-to-face delivery at IUNA with enrolled IUNA students only is the preferred delivery model.

3. Work with CHMF to develop and deliver a joint, annual recruitment plan for the 7TH GEN.[®] Summer and Wichozani Spring Certificate Programs.
4. Maintain strong academic standards for courses offered at CHMF. No annotations will be made on transcripts to distinguish between courses offered at CHMF and those offered on BHSU's home campus.
5. Employ and/or credential qualified faculty to teach the courses and one or more teaching assistants as needed. Provide faculty appointments appropriate to academic credentials in accordance with BHSU policies. CHMF employees assigned to teach should be approved by BHSU in advance. The assigned faculty will be chosen jointly by CHMF and the appropriate BHSU department chair and dean and provost. The faculty will be contracted through BHSU, and CHMF will reimburse the faculty salaries. If approved by CHMF and BHSU, some appointed faculty may be directly employed by CHMF, in which case, reimbursement will not be necessary.
6. Delegate direct supervision of the 7TH GEN.[®] Summer and Wichozani Spring Certificate Programs to CHMF, unless otherwise required to comply with BHSU policy, in which case CHMF will be engaged and consulted in any necessary decision-making and/or action. However, with respect to academic matters, the faculty's direct supervisor will remain the respective BHSU department chair and college/school dean.
7. Work with CHMF to evaluate the courses and faculty each semester (summer and spring); the parties will share any information pertinent to the evaluation that they gain or develop independently as permitted by SDBOR personnel policies.
8. Extend BHSU library services and library privileges to enrolled students in the 7TH GEN.[®] and Wichozani Programs, as well as faculty and teaching assistants employed pursuant to paragraph 5 above.
9. Name a main BHSU on-campus point-of-contact/program coordinator with whom CHMF will work to plan and deliver the program, to include admission, registration, and billing details.
10. Assist with student recruitment, serve on the interview and selection committee, and ensure accepted students are properly enrolled in the appropriate BHSU classes.
11. In concert with CHMF, plan and implement robust, culturally relevant co-curricular programs for enrolled students in the 7TH GEN.[®] and Wichozani Programs.
12. Arrange for state fleet vehicles for the summer and spring semesters with the understanding that the state fleet may only be used for official business as allowed per SD BOR and/or BHSU policy. CHMF faculty and staff driving fleet vehicles are required to complete a volunteer form prior to driving state vehicles.

13. Maintain a complete record of academic work completed by students and share this record with CHMF as authorized herein.
14. Make available BHSU counseling services for students in need.
15. Offer the courses identified in paragraphs 1 and 2 above at the Board of Regents' externally funded tuition rate.
16. Annually review and approve academic plans and budgets for the First-Year, Upper-Level Summer, and Spring Certificate programs. Operate the program in keeping with approved budgets and bill for tuition, faculty reimbursement, and fleet costs in keeping with this Agreement.
17. Develop specialized student and faculty/staff handbooks for the 7TH GEN.[®] and Wichozani Programs jointly with CHMF.
18. Assist CHMF with annual research on college persistence and college completion of students who successfully complete the program. Provide National Clearing House data through BHSU to CHMF researchers as needed.
19. Consult with CHMF on any planned grant proposals and/or research involving or related to the academic programs identified in this Agreement.
20. Comply with the rules, regulations, and policies of state and federal governments, and the policies of the Higher Learning Commission, SD Board of Regents, and Black Hills State University. Extend regional accreditation to courses and programs at CHMF and provide evidence of accreditation to CHMF.
21. Comply with the rules, regulations, and policies of CHMF, except if in conflict with any state or federal laws, or the rules, regulations, and policies of the Higher Learning Commission, the SD Board of Regents, and Black Hills State University.

CHMF Covenants and Agrees to Undertake the Following Duties and Obligations:

1. Fund the instructional and direct operational expenses for the 7TH GEN.[®] Summer and Wichozani Spring Programs, in keeping with the approved CHMF budget prepared annually. To include:
 - a. Student tuition at the SDBOR-approved externally funded tuition rate.
 - b. Faculty and teaching assistant salaries. Assigned faculty will be chosen jointly by CHMF and the appropriate BHSU department chair and dean. The faculty will be contracted through BHSU, and CHMF will reimburse the faculty salaries. If agreed upon by the parties, some appointed faculty may be directly employed by CHMF.
 - c. Fleet expenses for use of state vehicles.

- d. An onsite director and assistant director for the programs.
 - e. Onsite residence life manager and residential advisors, providing 24/7 oversight.
 - f. Onsite academic advising and academic success coaching for enrolled students while onsite and beyond the program.
 - g. CHMF will provide food and lodging to faculty and teaching assistants assigned to the program who cannot commute.
 - h. CHMF will fund the majority of the students' food and lodging expenses in the 7TH GEN.[®] First-Year Summer and Wichozani Spring Program. The student will be responsible for \$800 food and lodging expenses paid to CHMF and for a \$50 Room Deposit. An external party or tribe may fund the students' expense share as arranged.
 - i. CHMF or an arranged third party will be responsible for a majority or up to 100% of the student food and lodging costs for the 7TH GEN.[®] Upper-Level Program. Payment of student food and lodging costs may vary depending on the business location of the internships. Program fact sheets will fully clarify and disclose any student responsibility to pay food and lodging costs.
 - j. Books.
 - k. Co-Curricular expenses.
2. Prepare students and faculty/staff handbooks jointly with BHSU.
 3. CHMF will provide direct supervision of the program, subject to any limitations stated herein. For academic matters, faculty supervisors remain the respective BHSU department chair and college or school dean.
 4. Recruit students to the programs and conduct interviews and accept up to 32 students in the 7TH GEN.[®] First-Year Program, Wichozani Program, and the annual enrollment number set for the 7TH GEN.[®] Upper- Level Program as determined by CHMF. Share the contact information of all student prospects with the BHSU director of admissions.
 5. Develop and administer admission applications for each program jointly with BHSU.
 6. Organize, deliver, and supervise co-curricular activities in keeping with the learning objectives of the 7TH GEN.[®] and Wichozani Programs.
 7. Annually obtain the data for, draft the report of, and share with BHSU the research results of the college persistence/college graduation and employment information on students who successfully completed the program, regardless of where they are pursuing degrees.
 8. Plan and deliver the annual student and faculty and staff orientations prior to the start of the Summer Programs.
 9. Operate the 7TH GEN.[®] Summer Programs in keeping with the terms of the Agreement and CHMF approved budgets.

10. Provide instructional and residential space for the 7TH GEN.® First-Year and Wichozani Program at CHMF and at an arranged location or locations for the Upper-Level Program.
11. Comply with the applicable laws, regulations, and policies of state and federal governments, and the policies of the Higher Learning Commission, the SDBOR, and BHSU.

No Partnership

AGREEMENT. Nothing herein shall be construed as a waiver of sovereign immunity on behalf of BHSU. For purposes of this, Agreement, BHSU and CHMF are separate and independent legal entities, and are not related in any manner. Neither party shall have the authority to legally bind, incur any liability on behalf of, or direct the work of the other party, its officers, agents, or employees.

Notices

Any notice or other communication required under this Agreement shall be in writing and communicated to the following points of contact. Notices shall be directed to the parties as indicated below or to such other address as may have been designated in writing by the addressee.

If to CHMF:

Kay Jorgensen
 Chair of the Board of Directors
 Crazy Horse Memorial Foundation
 12151 Avenue of the Chiefs
 Crazy Horse, SD 57730
memorial@crazyhorse.org
 605-673-4681

If to BHSU:

President Steve Elliott
 Black Hills State University
 1200 University Street
 Spearfish, SD 57799
Steve.Elliott@bhsu.edu
 605-642-6111

With a copy to:

Whitney Rencountre
 Chief Executive Officer
 Crazy Horse Memorial Foundation
 12151 Avenue of the Chiefs
 Crazy Horse, SD 57730
whitney.rencountre@crazyhorse.org
 605-673-4681

Publication of Research

BHSU, as a state institution of higher education, engages in research that is compatible, consistent with, and beneficial to its academic role and mission. Therefore, significant results of research activities must be reasonably available for publication. The parties acknowledge that BHSU has the right to publish results in keeping with this Agreement. CHMF must approve, in advance, any research to be conducted at or about CHMF involving enrolled students during the term of this Agreement and thereafter. CHMF shall have thirty (30) days to review and comment on any proposed publication resulting from the work conducted in accord with this Agreement. If CHMF finds errors of fact in the proposed publication, the two parties shall negotiate over the wording. If Agreement cannot be reached between CHMF and the researcher, CHMF will write a footnote, to be identified by its source, pointing out these errors of fact, and the source-noted footnote will be included in the publication. CHMF must approve the use of its corporate name and identity, including The Indian University of North America® in BHSU-approved publications and in research submitted for publication in accord with this Agreement.

Non Discrimination and Compliance

BHSU and CHMF agree not to discriminate or harass individuals based on sex, race, color, creed, national origin, ancestry, citizenship, gender, gender identification, transgender, sexual orientation, religion, age, disability, genetic information, U.S. veteran status, or any other status that may be protected under the U.S. and South Dakota law against discrimination. Both parties understand that in keeping with the CHMF mission, preference is given to students and faculty who are enrolled members of federally recognized tribes.

BHSU and CHMF will comply with the applicable Family Educational Rights and Privacy Act (FERPA) requirements and protection of Student Information. Confidential student records and information (“Student Information”) include hard copy, and any other format or medium, Student Education Record Information and personally identifiable information contained therein as defined by FERPA. CHMF shall not disclose Student Information except as permitted or required by the Agreement, as required by law, or as otherwise authorized in writing by BHSU. CHMF agrees not to use Student Information for a purpose other than the purpose for which the disclosure was made. The parties shall develop, implement, maintain, and use appropriate administrative, technical, and physical security measures to preserve the confidentiality, integrity, and availability of all electronically maintained or transmitted Student Information received from, or on behalf of students in the 7TH GEN.® Summer and Wichozani Spring Programs. These measures will be extended by Agreement to all subcontractors used by CHMF. CHMF shall report in writing to BHSU any use or disclosure of Student Information not authorized by this Agreement. For purposes of this Agreement, BHSU shall designate CHMF as school officials with a legitimate educational interest in the educational records of students participating in the program only to the extent expressly allowed above.

Confidentiality

BHSU agrees that any proprietary information supplied to it by CHMF during research performed by BHSU will not be included in any published material without prior approval by CHMF.

Beyond recruiting and general description of the 7TH GEN.[®] and Wichozani Programs, CHMF and BHSU will not include each other's names, trademarked logos, or graphical marks in any advertising, sales promotion, or other publicity matter without the prior written approval of the authorized leader within each organization.

Term

The 7TH GEN.[®] and Wichozani programs outlined herein and established in this Agreement will be evaluated annually by representatives of BHSU and CHMF at the conclusion of each applicable semester and shall include a written evaluation of this Agreement to determine if any revisions are needed for the following year.

Unless written notification is provided by either of the parties by January 1, for the following calendar year, this Agreement, unless terminated earlier for cause, will be automatically renewed for another year to provide a continuous, contractual understanding. It is agreed and understood that both parties desire a long-term relationship in operating and developing the BHSU and CHMF association to expand academic programs to serve Native students and help them succeed in life.

Termination and Cure Period

In the event of a breach of this Agreement, the Non-breaching party must provide Notice of the Breach. The Breaching party has Ninety Days after receipt of the written notice to cure or inform the Non-breaching party of their plans to cure. In the event that the breach is not cured within the 90-day time period, or the Non-breaching party is not satisfied with breaching party's plan to cure, the Non Breaching party may terminate this AGREEMENT by a final written Notice. Such termination shall not become effective with respect to enrolled students in the 7TH GEN.[®] or Wichozani Program until they complete the program.

This Agreement depends upon the continued availability of the externally funded tuition rate from the SDBOR for this purpose and on the continued availability of funds from CHMF. If, for any reason, the SDBOR externally funded tuition rate becomes unavailable or CHMF lacks adequate funds for the Programs, this AGREEMENT will be terminated, but termination must occur prior to the start of a spring or summer semester.

Termination for any of the funding reasons stated above shall not constitute a default by BHSU or CHMF, nor shall it give rise to a claim against CHMF, BHSU, the SDBOR, or the State of South Dakota.

Final Agreement

This Agreement constitutes the final, complete, and entire Agreement of the parties as to the subject matter contained herein, and supersedes all prior Agreements, negotiations, and communications of the parties, whether oral or written.

Severability

The invalidity of all or any part of any section of this Agreement shall not render invalid the remainder of this Agreement or the remainder of such section. If any provision of this Agreement is held to be unenforceable for any reason, it shall be modified rather than voided, if possible, in order to achieve the intent of the parties to this Agreement to the extent possible.

Amendments

No amendment of any provision of this Agreement shall be valid unless the same shall be in writing and signed by all the parties to this Agreement.

Waiver

No waiver by any party of any default, misrepresentation, or breach of any representation, warranty or covenant hereunder, whether intentional or not, shall be deemed to extend to any prior or subsequent default, misrepresentation, or breach of any representation, warranty or covenant hereunder or affect in any way any rights arising by virtue of any default, misrepresentation, or breach of any representation, warranty, or covenant prior to or subsequent to such occurrence.

Assignment

No party may assign either this Agreement or any of its rights, interests, or obligations hereunder without the prior written consent of the other party or parties.

Construction

In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

Headings

The section headings contained in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement.

Counterparts

This Agreement may be executed in one (1) or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

Acknowledges and Agreed to by:

Dated this _____ day of _____, 2023.

CRAZY HORSE MEMORIAL FOUNDATION

By: _____

Its: _____

STATE OF _____)
:SS.
COUNTY OF _____)

On this the _____ day of _____, 2023, before me, the undersigned officer, personally appeared _____, as _____ of Crazy Horse Memorial Foundation, known to me or satisfactorily proven to be the person whose name is subscribed to the foregoing instrument, and acknowledged that she executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public
My Commission Expires: _____

(SEAL)

Dated this _____ day of _____, 2023.

BLACK HILLS STATE UNIVERSITY

By: _____

Its: _____

STATE OF _____)

:ss.

COUNTY OF _____)

On this the _____ day of _____, 2023, before me, the undersigned officer, personally appeared _____, as _____ of Black Hills State University, known to me or satisfactorily proven to be the person whose name is subscribed to the foregoing instrument, and acknowledged that she executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public

My Commission Expires: _____

(SEAL)