



August 4, 2017

Ms. Tamara Darnall  
Department of Education  
800 Governors Drive  
Pierre, South Dakota 57501

Dear Ms. Darnall:

The Government Operations and Audit Committee has scheduled a meeting for August 29, 2017, in room 362, in the State Capitol Building, to review various issues involving state government.

The Committee requests that you provide written answers to the following questions from Committee members by August 21, 2017 and be present on August 29, 2017 to discuss your answers with the Committee:

1. What research into the Microsoft valuation issue did you do or supervise or receive from other parties (Department of Legislative Audit, Mid Central Educational Cooperative, Secretary Schopp, or others) before your presentation to GOAC 8/25/15? Were you comfortable with the valuation representation?
2. In the SEPT 21, 2015, letter to Mid Central, cancelling the GEAR UP grant, DOE lists several reasons for non-renewal and termination. Among DOE reasons were "(5) Conflict of interest and failure to disclose related parties...." What specific "Conflict of interest and failure to disclose related parties" were you aware of before the contract was canceled? When did you become aware of them? Who did you report them to? (provide all memos and emails in support of your answers)
3. When did you first become aware that Stacy Phelps was simultaneously a member of the South Dakota Board of Education and the Program Director for the GEAR UP grant at Mid Central?
4. When did you first become aware that Stacy Phelps was simultaneously the Program Director for the GEAR UP grant at Mid Central and the Chief Executive Officer (CEO) for the American Indian institute for Innovation (AIII)?
5. When did you first become aware that Stacy Phelps employed 10 family members at his GEAR UP summer camp, paying them, according to the Eide Bailly audit, over \$386,000 during a two-year period?
6. When did you first become aware that an 11th Phelps family member [Alice Phelps] was on AIII's payroll for \$90,000 per year as the Principal of a school run by AIII, for which she was also an Administrative Coordinator?
7. When did you first become aware that Stacy Phelps was simultaneously the CEO for AIII and the President of Black Rock Consulting, one of seven corporations created by Scott Westerhuis, in which Scott Westerhuis was the Vice-President and Nicole Westerhuis was the Secretary?
8. When did you first become aware that Scott Westerhuis was simultaneously the Business Manager of Mid Central and the Chief Financial Officer of AIII?

9. When did you first become aware that Scott Westerhuis was simultaneously the Business Manager of Mid Central and the creator and registered agent of Oceti Sakowin Education Consortium, an organization whose Business Manager was Nicole Westerhuis, and, which, according to the Eide Bailly audit, received at least \$171,000 in GEAR UP funds?
10. When did you first become aware that Nicole Westerhuis was simultaneously the Business Manager of Oceti Sakowin and the Assistant Business Manager of Mid Central?
11. When did you first become aware that Kelly Duncan was simultaneously a member of the South Dakota Board of Education and was being paid by Mid Central to manage the federally funded College Access grant, a purpose of which is to increase the number of low-income students who are prepared to enter and succeed in post-secondary education?
12. When did you first become aware that Kelly Duncan was simultaneously a member of the South Dakota Board of Education, being paid or having been paid by Mid Central to manage the College Access grant, and being paid by the University of South Dakota to be an "independent evaluator" of the GEAR UP grant at Mid Central?
13. When did you first become aware the Julie Mathiesen was simultaneously a member of the South Dakota Board of Education and serving in leadership roles in both Technology and Innovation in Education (TIE) and Three Rivers Special Services Cooperative in Philip, SD?
14. When did you first become aware that Julie Mathiesen, while serving on the South Dakota Board of Education, was also, in her leadership roles at TIE and Three Rivers, signing about \$2 million of contracts with the South Dakota Department of Education?
15. When did you first become aware that Rick Melmer was simultaneously on Mid Central's Advisory Board, was being compensated as a consultant of Mid Central, and was on the South Dakota Department of Education's Oversight Board for Native Education, a board whose members you appointed?
16. When did you first become aware that former Education Secretary Melmer and former SD Office of Indian Education Director Keith Moore were being paid by Mid Central (in part, with GEAR UP funds), but they neglected for months to submit effort logs showing what they had been working on?
17. When did you first become aware that Mid Central was paying Melmer \$18,604 per month to be a Senior Advisor, a contract at least partially funded by GEAR UP, that also gave Melmer 12 days of vacation leave, 15 days of sick leave, two days of personal leave, state rates for mileage, and health and dental insurance? What advice did Melmer provide the Lead Gear Up Grant Partner, Department of Education, as a matter of his contract? Did DOE approve of his contract? Monies expended to pay his salary?
18. When did you first become aware that the Inspector General of the Bureau of Indian Affairs revealed that Melmer and Moore, while Moore was the Director of the Bureau of Indian Education in Washington, DC, attempted to steer a federal contract to friends in Pierre, SD, with the Inspector General concluding that Moore and his chief of staff "appear to have acted in violation of Federal ethics regulations governing impartiality...and the use of public office for private gain."? Did you report these conflicts of interest to the governor or his chief of staff? When? What were their responses to Melmer's & Moore's continued involvement in GEAR UP after their ethics violation was reported to your office? Who approved their continued involvement after that report? (provide memos and emails in support of your answers)
19. Sec Schopp told the GOAC on Jul 24, 2017 that your office offered the Department of Education contract independent evaluator position to PerGroup and they backed out of handling the contract position. Who all recommended, offered, and was involved in the approval of that contract to Personal Group (PERGROUP)?
20. When did you first become aware that consultant Brinda Kuhn prepared the initial South Dakota 2005 GEAR UP grant application? Is it true she simply whited out "Maine," changed it to "South

- Dakota?" How much was she paid for "writing" the grant? When Did you approve her managing the GEAR UP grant for Mid Central, getting paid by Mid Central for giving airplane rides to GEAR UP campers, and being the state's contractual independent evaluator for the GEAR UP grant? Was this part of the "conflicts of interests" you cited to cancel the program with Mid Central?
21. In January 2011, besides yourself and all of the DOE "management team" who were cc'd on her email to Secretary Schopp, did you share LuAnn Werdell's reports of illegalities in those emails with Governor Daugaard? His chief of staff? Any law enforcement officials? (provide all memos and emails in support of your answers)
  22. Who were all the persons that recommended and decided LuAnn Werdell's employment was not needed (to be terminated) in the Daugaard administration? Did her termination occur after she reported the illegalities within GEAR UP, etc.? Were you told by anyone to destroy her emails in which she reported these problems? (provide all memos and emails in support of your answers)
  23. Did you, or anyone you know of, instruct LuAnn to not to speak of what she knew about the improprieties she witnessed or complained about in the GEAR Up and other grants administered by Mid Central and/or the Department of Education, after she was fired? (provide all memos and emails in support of your answers)
  24. Besides LuAnn Werdell, and Roger Campbell, what other persons are you aware of that expressed concerns of improprieties or wrong doings of grants handled by Mid Central? AIII? Or any other entities managed by Stacy Phelps? Keith Moore? Rick Melmer? Any other persons? (provide all memos and emails in support of your answers)
  25. When and who did Roger Campbell report concerns or reports of misconduct, illegalities, improprieties regarding the GEAR UP and/or other grants or programs to that you are aware of. (provide all memos and emails in support of your answers)
  26. When and who did you advise of any of the circumstances above? (provide memos and emails in support of your answers) What were their responses to the information? (provide all memos and emails in support of your answers)
  27. When and how did you advise the Attorney General, DCI, or any law enforcement, of any reports of fraud, misappropriation, or suspected criminal activity reported to you by any person? (provide all memos and emails in support of your answers)
  28. Other than your state salary for your employment with DOE, have you ever received any other type of monetary or items of value for your involvement with GEAR UP or any other state or federal grants? Has any members of your family? If so, what and when?
  29. You have testified in front of the GOAC with Mid Central members to include providing statistics of children claimed assisted by GEAR UP, as well as testimony claiming the Microsoft software was a legitimate claim. When did you become aware that those statistics were in fact not reliable and the Microsoft software was in fact not used and circumstances indicated it was not a legitimate claim? When and who did you report that information to? Provide the emails and reports you provided to GOAC over the years regarding any claims of success of the Gear Up program and of you correcting testimony you became aware was fraudulent, false, inaccurate, or questionable.

Please submit your answers to Tim Flannery, Department of Legislative Audit, 427 South Chapelle, Pierre, SD, 57501 by August 21, 2017 so that the information can be sent to all Committee members in advance of the actual meeting date. The meeting is scheduled to begin at 8:00 a.m. on August 29, 2017.

If you have any questions, please contact Tim Flannery with the Department of Legislative Audit at 773-3595.

Ms. Darnall  
August 4, 2017  
Page 4

Sincerely,

A handwritten signature in blue ink that reads "Deb Peters". The signature is fluid and cursive, with the first name "Deb" being more prominent than the last name "Peters".

Senator Deb Peters, Chair  
Government Operations and Audit Committee

A handwritten signature in blue ink that reads "Jean Hunhoff". The signature is highly stylized and cursive, with the first name "Jean" being the most legible part.

Representative Hunhoff, Vice-Chair  
Government Operations and Audit Committee