SOUTH DAKOTA BOARD OF REGENTS

Academic and Student Affairs
Consent

AGENDA ITEM: 5 – G
DATE: June 26-27, 2019

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SUBJECT
Memorandum of Understanding – SDSU & Crazy Horse Memorial Foundation

CONTROLLING STATUTE, RULE, OR POLICY
None

BACKGROUND / DISCUSSION
South Dakota State University (SDSU) is requesting to enter into an agreement with the Crazy Horse Memorial Foundation (CHMF). This agreement involves the development and operational implementation of a signature fall-semester, undergraduate, academic certificate program in leadership and sustainability delivered at The Indian University of North America® at Crazy Horse Memorial. Together, CHMF and SDSU will develop a 15-credit-hour leadership and sustainability program taught through the subject matter of “Native Approaches to Earth and Community Sustainability”, titled MAKA, which means Mother Earth in Lakota. The program will include existing coursework at SDSU and culminate in a credit-bearing academic certificate transcripted by SDSU. Overarching program themes of leadership, healing, and health will be embedded into curricular and co-curricular activities. The program’s objective is to validate, empower, and inspire students towards college graduation and success in life. Course credits are transferable to any accredited college or university if accepted by the institution, and the program’s seamless applicability to each student’s program of study will vary, contingent on the student’s degree and university.

IMPACT AND RECOMMENDATION
The development and offering of this program is intended to improve Native American student recruitment, retention, and success in higher education. It will be delivered to college-level, second-semester freshman through senior-level students using a study-abroad model. The distinctive program will be offered at CHMF’s Indian University of North America in the Black Hills of South Dakota. The Black Hills will serve as a natural laboratory for case studies.

DRAFT MOTION 20190626_5-G:
I move to approve the Memorandum of Understanding between South Dakota State University and the Crazy Horse Memorial Foundation, as presented.
If approved, this MOU will be evaluated annually by representatives of SDSU and CHMF at the conclusion of each fall semester and shall include an evaluation of this MOU to determine if any revisions are needed for the following year.

Board staff recommends approval.

ATTACHMENTS
Attachment I – MOU: SDSU & Crazy Horse Memorial Foundation
Memorandum of Understanding
Between
Crazy Horse Memorial Foundation (CHMF)
And
South Dakota State University (SDSU)
May 2019

Crazy Horse Memorial Foundation®
The Indian University of North America®
12151 Avenue of the Chiefs
Crazy Horse, South Dakota 57730-8900
Laurie.Becvar@crazyhorse.org

South Dakota State University
Provost’s Office
Morrill Hall
Brookings, SD 57707
Dennis.Hedge@sdstate.edu

This Memorandum of Understanding (MOU) represents the original agreement between South Dakota State University (SDSU), a public, land-grant university under the control and management of the South Dakota Board of Regents (SDBOR), Brookings, South Dakota, and Crazy Horse Memorial Foundation, Inc. (CHMF), Crazy Horse, South Dakota.

This agreement outlines the development and operational implementation of a signature fall-semester, undergraduate, academic certificate program in leadership and sustainability delivered at The Indian University of North America® at Crazy Horse Memorial. Together, CHMF and SDSU will develop a 15-credit-hour leadership and sustainability program taught through the subject matter of “Native Approaches to Earth and Community Sustainability”, titled MAKA, which means Mother Earth in Lakota. The program will include existing coursework at SDSU and culminate in a credit-bearing academic certificate transcripted by SDSU. Overarching program themes of leadership, healing, and health will be embedded into curricular and co-curricular activities. The program’s objective is to validate, empower, and inspire students towards college graduation and success in life. Course credits are transferable to any accredited college or university if accepted by the institution, and the program’s seamless applicability to each student’s program of study will vary, contingent on the student’s degree and university.

The development and offering of this program is intended to improve Native American student recruitment, retention, and success in higher education. It will be delivered to college-level, second-semester freshman through senior-level students using a study-abroad model. The distinctive program will be offered at CHMF’s Indian University of North America in the Black Hills of South Dakota. The Black Hills will serve as a natural laboratory for case studies.
CHMF agrees to:

1. Fund the following instructional and direct operational expenses in keeping with the approved budget plan prepared annually by CHMF and SDSU:
   a. Student tuition for students accepted and enrolled in the program per SDBOR Policy 5:5:3 (externally-supported tuition rate).
   b. Faculty salaries for faculty assigned to teach in the program each fall semester, from late August to early December. Assigned faculty will be collaboratively chosen by CHMF and the appropriate SDSU department head and dean. The faculty will be contracted through SDSU and CHMF will reimburse the faculty salaries.
   c. Fleet expense for use of state vehicles.
   d. Up to $15,000 of advertising and recruitment costs annually.
   e. Instructional expenses/ case study travel up to $5,000 annually.
   f. An onsite CHMF director of programs while the program is in session.
   g. Onsite CHMF residence manager while the program is in session.
   h. Onsite residential staff providing 24/7 oversight while the program is in session.
   i. Onsite manager of academic success/academic advisor and academic success coaching for enrolled students beyond the program.
   j. CHMF will provide food and lodging to faculty assigned to teach in the program.
   k. CHMF will provide student lodging at a cost of thirty ($30) per student, per day, or $3150 per student for the fall semester. CHMF will subsidize 50% of each student’s lodging costs. Each student will be charged the remaining $1575 for lodging at The Indian University of North America facility.
   l. A discounted rate of twenty ($20) per student, per day will charged for food to include three meals per day. Each student will be charged $2100 for food.

2. Prepare student handbooks unique to this program in tandem with SDSU.
3. Recruit students to the program, conduct interviews, and recommend 20-30 students each fall term, beginning fall 2020.
4. Organize, deliver, and supervise co-curricular activities in keeping with the learning objectives of the program.
5. Annually obtain the data for, draft the report of, and share with SDSU college persistence/college graduation and employment information on students who successfully completed the program, regardless of where they are pursuing degrees.
6. Provide, via the onsite administrative and residential staff, faculty orientation prior to the start of each fall semester.
7. Provide adequate instructional space for the program.
8. Operate the program in keeping with the terms of this MOU and within agreed upon budgets.
9. Comply with all applicable laws, rules, regulations, and policies of the state and federal governments, and the policies of the Higher Learning Commission, SDBOR, and SDSU.

SDSU agrees to:

1. Develop the 15-credit-hour program culminating in a credit-bearing certificate in partnership with CHMF.
2. Implement and maintain strong academic standards for the program.
3. Annually review academic plans and budgets for the program.
4. Name a main SDSU point-of-contact with whom CHMF will work to annually review the program.
5. Name a main SDSU Admissions contact to assist with recruitment and formally accept and enroll students in this program as SDSU credit-bearing students.
6. Seek input from CHMF on the selection of faculty and employ and/or appoint and credential qualified faculty to teach agreed upon courses required for the program. CHMF will directly pay or reimburse faculty costs per the terms of this MOU.
7. Arrange for state fleet vehicles to be used for the fall semester program with the understanding that state fleet vehicles can only be used for official state business as allowed per SDBOR Policy 5:13. CHMF staff are required to complete a volunteer form prior to driving state-owned vehicles.
8. Provide faculty appointments appropriate to academic credentials in accordance with SDSU policies and procedures for the following CHMF employees:
   a. President/COO; Laurie Becvar.
   b. Director of Programs, The Indian University of North America; John Little.
   c. Academic Success Manager; Joshua Little.
9. Contribute $15,000 annually towards recruitment activities.
10. Maintain a complete record of academic work completed by students and share this record with CHMF through its President/COO and Director of Programs.
11. Offer the 15-credit-hour program at the South Dakota Board of Regents’ externally funded tuition rate. The externally funded tuition rate is subject to approval by the South Dakota Board of Regents as described by BOR Policy 2:13.
12. Operate the academic program within the agreed upon annual budgets.
13. Develop specialized student handbooks in tandem with CHMF.
14. Assist in annual research to accurately track college persistence and college graduation rates of successful program completers. Provide National Clearing House data through SDSU to CHMF researchers as needed.
15. Consult with CHMF on any planned grant proposals and/or research involving or related to the herein-described academic program.
16. Comply with the rules, regulations, and policies of the state and federal governments, and the policies of the Higher Learning Commission, SD Board of Regents, and South Dakota State University.
17. Comply with the rules, regulations, and policies of CHMF, except when in conflict with the laws, rules, regulations, and policies of the Higher Learning Commission, the SD Board of Regents, and South Dakota State University.

Both SDSU and CHMF agree:

SDSU and CHMF agree to that with respect to any claim or action arising out of the activities described or performed under this MOU, each, respectively, will remain responsible for any and all liabilities, claims, damages, charges and expenses incurred by reason of the negligent acts or omissions of its officers, agents, and employees. Nothing herein shall be construed as a waiver of immunity provided by
law. For purposes of this MOU, SDSU 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, their officers, agents, and employees.

Any notice or other communication required under this MOU shall be in writing communicated to the following points of contact:

<table>
<thead>
<tr>
<th>For CHMF</th>
<th>For SDSU</th>
</tr>
</thead>
<tbody>
<tr>
<td>Laurie Becvar</td>
<td>Dennis Hedge</td>
</tr>
<tr>
<td>President/COO</td>
<td>Provost &amp; VPAA</td>
</tr>
<tr>
<td>12151 Avenue of Chiefs</td>
<td>Box 2201, Morrill Hall 230</td>
</tr>
<tr>
<td>Custer, SD 57730</td>
<td>Brookings, SD 57007</td>
</tr>
<tr>
<td><a href="mailto:Laurie.Becvar@crazyhorse.org">Laurie.Becvar@crazyhorse.org</a></td>
<td><a href="mailto:Dennis.Hedge@sdstate.edu">Dennis.Hedge@sdstate.edu</a></td>
</tr>
<tr>
<td>(605) 673-4681</td>
<td>(605) 688-4173</td>
</tr>
</tbody>
</table>

SDSU as a state institution of higher education engages in research that is compatible, consistent, and beneficial to its academic role and mission. Therefore, significant results of research activities must be reasonably available for publication. The parties acknowledge that SDSU has the right to publish results in keeping with this MOU. The President/COO of CHMF must approve, in advance, any research to be conducted at or about CHMF and the program of The Indian University of North America and enrolled students during the term of this MOU and thereafter, CHMF shall have thirty (30) days to review and comment on any proposed publication resulting from work conducted in accord with this MOU. If CHMF finds errors of fact in the proposed publication, the two parties shall negotiate over the wording. If no MOU can be reached between the researcher and the CHMF President/COO, the CHMF President/COO 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 has the right to approve the use of its corporate name and identity and that of The Indian University of North America in SDSU-approved publications and in research submitted for publication in accord with this MOU.

SDSU and CHMF agree not to discriminate or harass individuals on the basis of 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 become protected under U.S. and South Dakota law against discrimination.

SDSU and CHMF will comply with applicable Family Educational Rights and Privacy Act (FERPA) requirements and protection of Student Information. Confidential student records and information ("Student Information") includes 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 MOU, as required by law, or as otherwise authorized in writing by SDSU. CHMF agrees not to use Student Information for any 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 this program. These measures will be extended
by Agreement to all subcontractors used by CHMF. CHMF shall report to SDSU any use or disclosure of Student Information not authorized by this MOU or in writing by SDSU. For purposes of this Agreement, SDSU shall designate CHMF as school officials with a legitimate educational interest in the Student Information of students participating in the program only to the extent expressly allowed above.

SDSU agrees that any propriety information supplied to it by CHMF during the course of research performed by SDSU will not be included in any published material without prior approval by the CHMF President/COO.

Beyond recruiting and general description of the program, CHMF and SDSU will not include each other’s names in any advertising, sales promotion, or other publicity matter without the prior written approval of the authorized leader within each organization.

The program in the MOU will be evaluated annually by representatives of SDSU and CHMF at the conclusion of each fall semester and shall include an evaluation of this MOU to determine if any revisions are needed for the following year.

Unless written notification is provided by either of the parties by January 15, for the fall semester of the same calendar year, this MOU, unless terminated earlier for cause, will be automatically renewed to provide a continuous, contractual understanding, giving testament that both parties desire a long-term partnership in operating and developing the SDSU and CHMF partnership to expand academic programs to serve Native students and help them succeed in life. Any dispute resolution or litigation will take place within the State of South Dakota and will be governed by and subject to South Dakota law without regard to any principles of conflicts of law. This MOU, and any attachment thereto, may not be amended or assigned without the written consent of both parties, which writing shall be expressly identified as a part hereof. All other prior discussions, communications and representations concerning the subject matter of this MOU are superseded by the terms of this MOU, and except as specifically and expressly provided herein, this MOU constitutes the entire agreement with respect to the subject matter hereof. This MOU 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 provision of this MOU.

Either of the parties may terminate this MOU upon sixty days’ written notice of a breach of this MOU by the other party. The breaching party shall have fourteen (14) days from receipt of the written notice to cure any breach and provide proof of the cure to the nonbreaching party. If the breaching party does not cure the breach in the allotted time, the nonbreaching party is allowed to terminate as provided herein. Such termination shall not become effective with respect to enrolled students until they complete the program.

This MOU depends upon the continued availability of appropriated funds and expenditure authority from the South Dakota Legislature for this purpose. If for any reason the Legislature fails to appropriate funds or grant expenditure authority, or funds become unavailable by operation of law or federal funds reductions, this MOU will be terminated immediately by SDSU. Termination for any of these reasons is
not a default by SDSU nor does it give rise to a claim against the State of South Dakota, the SDBOR, or SDSU.

Acknowledged by and agreed to by on this date _______

Crazy Horse Memorial Foundation

Monique Ziolkowski, CEO

Jadwiga Ziolkowski, CEO

South Dakota State University

Dr. Barry Dunn, President

Dr. Dennis Hedge, Provost

Dr. Laurie Becvar, President/COO